United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, WEDNESDAY, FEBRUARY 13, 2008 No. 24

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BERNARD SANDERS, a Senator from the State of Vermont.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, creator and sustainer of life, no good thing have You withheld from the children of humanity.

Lead our Senators today along productive paths. Teach them to give up the things that really don't matter: an opinion of their personal infallibility; a devotion to the trivial; a penchant for the petty; a tendency to equate their own well-being with the ongoing of the universe. Remind them that if they merely do what they please, they shall not be pleased with what they do. Give them grace to take up the cross of sacrificial service with the goal of pleasing You.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BERNARD SANDERS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 13, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BERNARD SANDERS, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANDERS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, there will be a period for the transaction of morning business, with 1 hour equally divided, prior to a cloture vote on the conference report to accompany H.R. 2082, the Intelligence Authorization Act for 2008.

ORDER OF PROCEDURE

On the majority side, I ask that the time of 30 minutes be divided, with 15 minutes for Senator FEINSTEIN, 10 minutes for Senator ROCKEFELLER, and 5 minutes for Senator WYDEN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOREIGN INTELLIGENCE SURVEILLANCE ACT EXTENSION

Mr. REID. Mr. President, this morning the statement was made by the President in the Oval Office that he will refuse to sign a temporary extension of the current FISA law. This is a statement from the person who wants to unite, not divide. This is part of the Orwellian-speak we have had for 7 years out of the White House.

Let's be very clear. President Bush, obviously, is more interested in politicizing intelligence than finding solutions to the problems we are facing in this difficult situation. Today, he continues to try to bully Congress. Let's not forget that we would not even be discussing this issue if not for his actions.

What were some of those actions? In their unyielding efforts to expand Presidential powers, President Bush and Vice President CHENEY created a system to conduct wiretapping, eavesdropping—including on American citizens—outside the bounds of longstanding Federal law. The President could easily have come to us and said: Let's change this law, and we would have gone along with probably little effort. But, no, he did not do that. He just went around the law, and when we passed the law to try to change it, he went around that too.

Congress has repeatedly amended the Foreign Intelligence Surveillance Act to reflect new technology and the legitimate needs of the intelligence community. We have done that often and for good reason. But, whether out of convenience, incompetence, or disdain for the rule of law, this administration chose to ignore Congress and basically ignored the law, ignored the Constitution.

Congress is working updates to the FISA law as we speak. Senate Republicans and the White House have spent many weeks slow-walking the bill as part of the Republican strategy to jam the House. We have known that, we have talked about it, and they did a good job because we were not able to pass this bill until last night. I believe it is wrong and irresponsible for the White House to do this. Due to months of White House foot-dragging, the relevant House committees have only now just gotten important documents related to whether the Bush administration followed the law and the Constitution. I cannot speak about those documents on the floor, but people need time to review and analyze these documents. It is not four or five pages. So we must not let this critical issue be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

resolved by the White House trying to push everybody around.

Let's work together on this issue. We are all working for the same goal: to protect American citizens against acts of terror. Congress is prepared to extend current law, the Protect America Act, by any length for Congress to complete the indepth analysis and negotiations necessary for long-term law broadly supported by the American people. If the President chooses to veto a short-term extension, as he said he would this morning, the responsibility for any ensuing intelligence-collecting gap lies on his shoulders and that of Vice President CHENEY and theirs alone, no one else.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. MCCONNELL. Mr. President, with regard to the Foreign Intelligence Surveillance Act, it passed in the Senate yesterday 68 to 29—an overwhelming bipartisan ratification of the Rockefeller-Bond bipartisan compromise to get us a permanent Foreign Intelligence Surveillance Act in place. There were a number of efforts to weaken the bill on the floor of the Senate. They were all defeated on a bipartisan basis. Most of them were defeated by a margin of 2 to 1.

Over in the House, we have heard from 21 Democratic Members, the ''Blue Dogs,'' who say the House ought to take up this overwhelmingly bipartisan Senate bill and pass it and send it to the President for his signature.

We had an important bipartisan victory just last week on the stimulus package. We have an opportunity to do it again this week on this extraordinarily important piece of legislation.

In thinking about how long we have been dealing with this legislation, we passed a short-term extension back in August. We have had 6 months to figure out what we wanted to do. We passed extremely important legislation—probably the most important piece of legislation we will pass this Congress—yesterday on an overwhelming bipartisan vote. The House of Representatives surely has followed what we have done. There is a bipartisan majority in the House of Representatives for what we did yesterday in the Senate. We know that. There is a bipartisan majority in the House of Representatives to take up and pass the Senate-passed bill in the House of Representatives now. That is what we know. That is what I hope will be done. The House will have an opportunity over the next couple of days to make its decision. But I think the President has correctly assessed the situation and decided we have had ample time to deal with this legislation, to find out how we felt about it, to vote on it, to make whatever changes people thought were appropriate. And we know there is a bipartisan majority in the House waiting to pass it. I hope they will be given that opportunity later this week.

HONORING OUR ARMED FORCES

MASTER SERGEANT CLINTON W. CUBERT

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a brave soldier from Kentucky who was lost in the performance of his duty. On September 11, 2005—4 years after the brutal attacks that compelled our Nation to fight the war on terror that we still fight today—MSG Clinton W. Cubert was on combat patrol in Samarra in Iraq. An improvised explosive device set by terrorists exploded under his humvee.

Master Sergeant Cubert, of Lawrenceburg, KY, sustained mortal injuries in the blast. He survived to be transported to the Lexington Veterans Affairs Medical Center in Lexington, KY, and was reunited with his family. He passed away on Easter Sunday, April 16, 2006, at the age of 38.

For his valor during service, Master Sergeant Cubert received numerous medals and awards, including the Meritorious Service Medal, the Bronze Star Medal, and the Purple Heart Medal.

Born in Texas, Clinton Cubert moved to Lawrenceburg with his family at an early age. His parents, C.D. and Virginia Cubert, raised a boy who loved the outdoors. As a child, Clinton enjoyed deer hunting, boating, fishing, or just about anything that took him outside.

Clinton enjoyed country music, especially Hank Williams, Jr. He drove what family members kindly called ''beat-up'' Ford trucks and liked to get under the hood and tinker with them to keep them running until they couldn't go anymore.

Family members called him ''Clinton,'' but he also earned an unusual nickname. Because Clinton was willing to trade his entire lunch for the one food he loved so much, his friends called him ''Cornbread.''

Clinton met Amy, his wife, in Lawrenceburg when they were both in their early twenties. Amy thought Clinton looked very handsome in his uniform. Clinton and Amy raised two wonderful young women, Alisha Danielle and Sarah Dawn.

Clinton enlisted in the National Guard in 1987 and went on to serve with distinction for nearly 19 years. Normally he worked in the Combined Support Maintenance Shop at the Guard's headquarters in Frankfurt, KY, the State capital. Then, in January 2005, he was deployed in support of Operation Iraqi Freedom. Assigned to the 2113th Transportation Company, he became platoon leader of that unit's newly created 4th Platoon.

For Clinton's commanding officer, CPT William Serie, Clinton was his first and most obvious choice. ''[Master Sergeant Cubert] was the most dedicated in making sure his soldiers were trained, equipped and ready,'' he says. ''People use the word 'dedicated' and 'outstanding' and things of that nature, but I don't think those words really express what he did for us. He was truly a person that was outside the mold.''

In Iraq, Master Sergeant Cubert trained with 30 members of his platoon in combat tactics so that the units they protected in transit would arrive at their destinations safely. Captain Serie tells us that Clinton was innovative in devising new ways for soldiers to do their jobs more safely and efficiently.

''I believe that God puts special people in our lives to show us what we are capable of,'' Captain Serie says. ''Clinton was that type of leader.''

When Clinton was injured, the Army contacted Amy, and she flew to Germany to see her husband. Younger daughter Sarah was the first to answer the phone. At the age of 12, she wrote an essay for school about the terrible day her family received the news. ''I was looking in the mirror thinking all questions,'' Sarah wrote. ''Like the obvious ones—why us? Why now? But also the ones that are only thought by a daughter—who is going to walk me down the aisle? Who is going to give me hugs like him? Who is going to dress me up in camouflage flannels and take me hunting?''

We grieve today along with the Cubert family for their loss. Clinton leaves behind his wife Amy; his daughters, Alisha and Sarah; his sisters, Linda Lou Martin, Nancy Marie Robinson, Julie Ann Dent, and Peggy Ann Cubert; his brother Steven Wayne Cubert, and many other beloved family members and friends. Clinton was predeceased by his parents, C.D. and Virginia Cubert.

Clinton was taken from his loved ones before his time, but it must have been a blessing for them that he was able to come home and say goodbye. I am sure they will treasure forever every moment spent with Clinton. ''No one will forget his laughter,'' wrote his daughter Sarah, ''like the boom of gunshots during the funeral or the bagpipes playing Taps.''

This Senate will not forget MSG Clinton Cubert's bravery and service. Kentucky and the Nation are richer for his contributions to freedom's cause.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, in brief response to the distinguished Republican leader's remarks about the FISA extension, I acknowledge the bill passed yesterday. I voted against it, and I voted against cloture on the bill, but it was a bipartisan passage. I understand that. I don't dispute that. I saw what the numbers were. The bill was changed a little as it came from the committee, but it passed. It was bipartisan. I recognize that.

But the efforts made to extend this should be bipartisan. The House is going to do what they do, and they are going to send us a piece of legislation. They have not had time—I have spoken to the Speaker, and she has not had time, through her committees, for them to come up with the necessary work to have a conference that is meaningful because they are not ready for that. So they are going to send us a message and we are going to have to act on that.

If we pass it, it will not be what the President wants. If we have a little more time, the House, which has been working recently with the White House quite well on the stimulus package and other things, maybe could work something out. But you can't create something out of nothing, and that is what the President wants. He is looking for an excuse to wave his banner of ''be afraid, terror.'' That is what he and the Vice President have done.

We understand the law is important. We believe it should be extended for a short period of time. If it is not extended, it is not the fault of the Congress, it is the fault of Bush and CHENEY. We are doing everything we can to work this out. If it doesn't pass in the manner he wants, and it won't in the next few days—he wants total immunity for these phone companies that have cooperated or haven't cooperated with him, whatever the evidence shows. So I repeat, if we don't get an extension, the law will lapse. It is not the fault of the Congress, it is the fault of the White House.

Mr. President, I think we should announce what we are going to be doing here today.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with the time equally divided.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, it is my understanding that I have reserved time, 15 minutes, to speak in morning business.

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. FEINSTEIN. I thank the Chair.

CIA INTERROGATIONS AND ARMY FIELD MANUAL

Mrs. FEINSTEIN. Mr. President, yesterday was a big day before the Senate. We had the Foreign Intelligence Surveillance Act bill. Today is an even bigger day because the intelligence authorization bill is going to be before the Senate, and today we will grapple with something that I think should be major in our consciousness and major in our deliberations. It is central to who we are as a nation. The question is whether the United States should continue to go to the ''dark side,'' down the road of torture, and continue to allow the CIA and other intelligence agencies to practice or outsource state-sanctioned torture. To me, the answer is clear, and I hope it is to everyone. The answer should be no.

Today we are living in a legal limbo, where the rules are shrouded by ambiguity. The time has come to change this once and for all. The way to do it is to support the fiscal year 2008 intelligence authorization bill, which would prohibit all interrogation techniques by the CIA and place the intelligence community under the uniform standard of the Army Field Manual. If that bill passes, and it has passed the House of Representatives, if it passes here today, we have a uniform standard for the entire American Government with respect to coercive interrogation techniques.

The Army Field Manual, which looks like this, has 19 interrogation protocols. They are proven, they are flexible, and they are effective. The CIA interrogation program, on the other hand, I believe, is immoral, illegal, sometimes ineffective, and often counterproductive. I wish to simply read something which appeared in the newspapers, and what this says is:

> The book on interrogation has been written. We just need to follow it.

And they refer to this book, Mr. President.

> Cruel and inhuman and degrading treatment of prisoners under American control makes us less safe, violates our Nation's values, and damages America's reputation in the world. That is why, in 2004, the bipartisan 9/11 Commission called for humane treatment of those captured by the United States Government and our allies in the struggle against terrorism. Congress and the Pentagon responded with clear and comprehensive new rules for the military so that interrogation techniques practiced by the military today are both humane and effective. But not all United States agencies are following these rules. Congress should require the entire U.S. Government and those acting on its behalf to follow the Army Field Manual on Human Intelligence Collector Operations. Doing so will make us safer while safeguarding our cherished values and our vital national interests.

This was signed by Zbigniew Brzezinski, Warren Christopher, Lawrence Eagleburger, Slade Gorton, Lee Hamilton, Gary Hart, Rita Houser, Karla Hills, Thomas Kean, Anthony Lake, John Lehman, Richard Leon, Robert McFarlane, Donald McHenry, Sam Nunn, Thomas Pickering, Ted Sorensen, and John Whitehead. It is a bipartisan group that has come out with this, and I believe we should absorb it and use that information.

The Army Field Manual provision has the support of the Intelligence Committees. I offered the amendment in the conference between the House and the Senate on the intel authorization bill. It was passed by the Senate and it was passed by the House, and it is part of the bill, and as I said, the House has passed their bill. The amendment was the subject of passionate and considered debate in Congress. It has unique support—18 former security officials, as I have said—and this Army Field Manual was issued in its current form by the Department of the Army in September of 2006. It followed the requirements of the Detainee Treatment Act, and it applies uniformly across all elements of the military and civilian elements of the Department of Defense.

The manual was published after more than 3 years of drafting and coordination. This was the most scrutinized field manual the Army has ever produced, including reviews and comments by every relevant Pentagon office, every combatant commander, the White House, the DNI, the CIA, and the Defense Intelligence Agency. The Departments of Justice and State have also concurred with the manual's guidance. For the first time ever, the Army consulted with Congress in the persons of Senators MCCAIN, WARNER, and LEVIN in drafting the manual.

The manual complies with the Uniform Code of Military Justice, the Geneva Conventions, and the Detainee Treatment Act. There is perhaps no more authoritative figure on the manual than our commanding officer in Iraq, GEN David Petraeus. In a response to a survey showing that American troops in Iraq would consider torture in order to save their comrades, Petraeus wrote to the entire multinational force on May 10, 2007, and here is some of what he said:

> Certainly, extreme physical action can make someone ''talk''; however, what the individual says may be of questionable value. In fact, our experience in applying the interrogation standards laid out in the Army Field Manual shows that the techniques in the manual work effectively and humanely in eliciting information from detainees.

Now, what does the manual do? It specifically authorizes 19 approaches—you could call them interrogation techniques—and they are well thought out and each one is several pages on how to apply it. One of them can only be used on unlawful army combatants with the prior approval of the combatant commander. These techniques describe ways to build rapport with the detainee in order to get him or her to share information.

GEN Michael Maples, the Director of the DIA, recently rebutted the contention that the Army Field Manual wouldn't have covered the interrogation method used by an FBI special agent to get Saddam Hussein to finally come clean that he had no weapons of mass destruction.

So the manual specifically prohibits eight techniques, and here is what they are:

Forcing a detainee to be naked, perform sexual acts, pose in a sexual manner; placing hoods or sacks over the

head of a detainee; using duct tape over the eyes; beatings, electric shock, burns, or other forms of physical pain; waterboarding—very much the talk of the Nation; use of military working dogs; inducing hypothermia or heat injury; conducting mock executions; depriving detainee of necessary food, water, or medical care.

Those are the eight prohibited techniques in the Army Field Manual. It also incorporates what is called the ''golden rule,'' and this is important. It is an approach to interrogation. It requires military personnel to ask this question: If an interrogation technique were to be used against an American soldier, would I believe the soldier had been abused?

Adopting this conference report would extend that ''golden rule'' to CIA interrogations, to station agents all across the globe, and make sure that no coercive technique could be used if we would not be comfortable with the same technique being used against an American citizen.

Now, here are some facts about the CIA program. The CIA has used coercive techniques on detainees since September 11, 2001, under the President's authorization and approval of the Department of Justice. The CIA has waterboarded three detainees—Abu Zubaydah, Abd al-Rahim al-Nashiri, and Khalid Shaikh Mohammed.

The White House believes that waterboarding could be used in the future, even though General Hayden has recently publicly questioned its legality. The CIA has used contractors for interrogations, as General Hayden admitted in an open, public hearing this past week. So the CIA has outsourced what is an inherently governmental function of questionable legality and morality.

More importantly, the CIA's interrogation techniques change. There is no uniform standard. There is no standard as to how they are to be combined, what the circumstances are. Think about this. Done with cold calculation, any interrogation technique, when applied over the course of hours or days or months, and in combination with other techniques, can cross the line into illegality. An interrogator can choose from a menu of coercive approaches, pick several of them, and go to work. So don't be fooled. Even the least coercive-sounding technique, when used relentlessly or in combination, can be torture.

Now, in addition to being immoral, I believe the CIA interrogation program is illegal.

I say this as a member of the Intelligence Committee, and I say this as one who has been briefed several times on these techniques. These techniques have violated the Convention Against Torture and the U.S. torture statute by inflicting severe physical or mental pain or suffering to others. It has violated Geneva Convention common article III, which prohibits outrages upon personal dignity, in particular humiliating and degrading treatment.

The medical research is clear. Coercive techniques cause severe pain and suffering. That is why both the AMA and the American Psychological Association have passed resolutions against their members participating in such interrogations.

In a letter dated September 13, 2006, retired General and former Secretary of State Powell wrote this:

> The world is beginning to doubt the moral basis of our fight against terrorism.

I think that says it in a nutshell. As every Member knows, we will never win the war on terror by capturing or killing or torturing all our enemies. We will only win the war by our ideals and by removing any public support for al-Qaida's vision.

Using torture cuts away from our moral high ground. It takes America into the ''dark side,'' and thus it reduces our ability to win this war. I believe we should end this now.

The military is the segment of the U.S. population most likely to be captured and interrogated by our enemies. They know any technique we authorize can be used against them, and that is the point. If the United States uses waterboarding, you can be sure that waterboarding will be used against our station agents, against our military. It is a mistake to do so.

That is why 43 retired generals and admirals, including 10 four-star officers, have signed a letter to Congress denouncing coercive techniques and supporting the single unified uniform standard for the entire Government, the Army Field Manual.

Here is what they wrote:

> We believe that it is vital to the safety of our men and women in uniform that the United States not sanction the use of interrogation methods it would find unacceptable if inflicted by the enemy against captured Americans. That principle, embedded in the Army Field Manual, has guided generations of military personnel in combat.

And the letter goes on.

I have listened to the experts such as FBI Director Mueller and DIA Director General Maples. They all insist that even with hardened terrorists you get more and better intelligence with the gloves on than when you take them off.

The CIA cannot show that coercive techniques are more effective than noncoercive techniques. And I wish I could say what I know from a classified setting, but I cannot. They point to the anecdotes they have declassified, while the counterexamples remain classified.

So I can only summarize and say this: This is the moment where the Senate stands up. The House has stood up. They have passed a bill. If we want to ban waterboarding, if we want to ban the eight techniques banned by the Army Field Manual, this is our moment to do so. I think we should stand tall. I think we should adhere to our principles. I think we should raise what we say internally and once again regain the world's credibility. I hope we maintain the Senate bill as it is.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, action on the fiscal year 2008 authorization bill for intelligence is so long overdue I do not even know how to explain it. It is over 2 years overdue. It is a very important bill.

Beginning in 1978, after the two congressional intelligence committees were established, the Congress passed an annual intelligence authorization bill every year. It does not sound interesting, but it has a great deal to do with how the intelligence community operates. We passed it for 27 consecutive years. And there was no exception to that. This legislation was one of very few nonappropriations measures that Congress has always considered ''must pass.'' Yet we have failed to pass it for the last number of years, and it is a matter of consternation.

The importance of our intelligence programs to our national security has always been very obvious. The importance of strong congressional oversight of the intelligence activities has been equally obvious; although it has been spottier in the recent past, it no longer is.

Then in 2005 and 2006, the bills reported out of the Senate Intelligence Committee were never brought to the Senate for consideration. There were internal reasons for that. I will spare the Presiding Officer from a discussion of those matters, and it is no longer important why.

But we have to do this bill. The intelligence authorization bill is the tool the Congress uses to provide direction, specific direction, and to enforce the oversight that we do. It involves many of the most sensitive national security programs conducted by the U.S. Government.

The 2008 authorization bill includes provisions to improve the efficiency of the intelligence community. It is a bland statement, but it is a very important series of parts. The bill produces better intelligence. We provided flexibility and authority to the DNI. We gave him a tremendous responsibility and then did not give him enough flexibility to exercise that responsibility. We do that in this bill.

We require much greater accountability from the intelligence community. That is oversight. We require greater accountability from the intelligence community and its managers. We improve the mechanisms for conducting oversight of intelligence programs and we reform intelligence program acquisition procedures. All of that is oversight.

Many of the provisions were included at the request of the National Intelligence Director in this bill. I always believe in reaching out to the professionals in doing this.

The creation of the DNI position was the result of the most significant reform of the intelligence community in 50 years. And the current DNI, ADM

Mike McConnell, is absolutely superb. The Office of Director of National Intelligence has now existed for 2½ years, and we have begun identifying ways to help the DNI better coordinate the 16 elements of the intelligence community, which are scattered around the Government, some of which do a very good job and some of which do not. Now he is pulling all of this together and he is doing a good job.

Starting with personnel authority, this bill uses a much more flexible approach to authorizing personnel levels. Those are very delicate. We also give the DNI the ability to exceed personnel ceilings by as much as 3 percent because he needs to have that. He is in the process of trying to figure out how to adjust all of this and work it right. He needs flexibility. It also provides additional flexibility to encourage the DNI to convert contractor positions to Government employees when appropriate.

Every Member knows the real power is the power of the purse. It is the same with the DNI. And this bill changes reprogramming requirements to make it easier to address, as they say, emerging needs in critical situations, a crisis. We give him the financial flexibility to do that. He needs that flexibility, and he now will have it if we pass this bill.

It authorizes the DNI to use interagency funding amongst his various agencies that he oversees to establish national intelligence centers if he so chooses. The bill also allows the DNI to fund information-sharing efforts across the intelligence community. That was the whole point of the 9/11 Commission. That is the whole point of reducing stovepipes.

Finally, it repeals several unneeded and burdensome reporting requirements. Frankly, we can use up a lot of people's time on something that we no longer need. We reduce some reporting requirements without in any way compromising accountability because oversight is the whole point of this bill.

As it increases the authority of the DNI, the bill also improves oversight of the intelligence community in other ways. The bill creates a strong independent inspector general in the office of the DNI. It has to be confirmed by the Senate. That is called oversight. Confirmed by the Senate. That means it has to report to the committee. Accountable to the committee. It has to tell us the truth. Confirmation allows inspectors general to do very difficult things within their own departments that maybe some of the leaders will not do.

It establishes statutory inspectors general in the National Security Agency, the NRO, the NGA and the Defense Intelligence Agency. So these are all there. They are all accountable. They are all oversight tools that we want.

The bill also gives the Congress more oversight of the major intelligence agencies by requiring Senate confirmation of the Directors of NSA and NRO. Right now we do not have to confirm them. If we do not confirm, that means they do not have the same relationship with the Senate. We confirm the CIA, but we do not confirm the NSA.

You tell me, particularly after we passed the FISA bill yesterday, how is it possible that we would not be able to confirm the head of the National Security Agency as well under this bill? We can, which makes him accountable to us, which means he reports to us, which means we can do oversight over him much more aggressively.

As we describe in our conference report:

> . . . of the need for NSA's authorized collection to be consistent with the protection of the civil liberties and private interests of U.S. persons.

Through confirmation of the NSA Director, we can ensure that continues or starts to be so.

As we increase the DNI's flexibility to manage personnel, we require an annual assessment. That sounds boring, but, no, it is not. It is very important—an annual assessment of personnel levels across the intelligence community: How are they distributed? Are they in the right place? Are people protecting their turf? The DNI is in charge of this. We want to give him all the support, and we want this all reported to us in our committee so we can watch it.

We also required the inclusion of a statement that those levels are supported by adequate infrastructure, training, funding, and a review of the appropriate use of contractors, which has become a very interesting subject in these months and years.

This bill also addresses an issue that has concerned the committee for a long time, the lack of accountability for failures and programmatic blunders. That is called oversight.

We want accountability. We want it in front of us. We want our hands on it. The bill gives the DNI the authority to conduct accountability reviews across the intelligence community if he deems it necessary or if we request it in our committee. It is called oversight.

This also improves financial management by requiring a variety of actions related to the production of auditable financial statements. That sounds pretty boring, but, no, it is not. When you get into the intelligence community, when you get to classified numbers, things of that sort, it is very important to have someone watching. That is oversight. We will have that if this bill passes.

The final major theme in the bill is the reform of the acquisition process. The bill requires a vulnerability assessment of all major acquisition programs. Well, acquisition is a very large word in intelligence and a very expensive word. We have made some very big mistakes, we have not been able to correct them.

But that is a discussion for another day. So we have a classified annex. Any Senator who wants to look at what is behind all of those numbers can do that very easily.

I have other things I wish to talk about, particularly the Army Field Manual. But I have a whole different speech awaiting my colleagues on that later in the day.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague with whom I have worked closely on this and many other matters.

One of the most important means that Congress has for conducting oversight of the intelligence community is through the annual authorization bill for the intelligence agency. Regrettably, we can't call it an annual Intelligence Authorization bill because Congress was unable to pass a bill in 2006 and 2007. Unfortunately, it appears we are on a path that may prevent us from getting an authorization bill signed for fiscal year 2008.

When I assumed the duties as vice chairman of the select committee at the beginning of this Congress, one of my top priorities—and that of the committee—was to get an Intelligence Authorization bill signed into law. During the first month of our tenure, we tried to resuscitate the fiscal year 2007 bill but could not get it out of the Senate. When the time came to fashion a bill for fiscal year 2008, we had better luck. But as Louis Pasteur once said, ''Chance favors the prepared mind.'' The committee worked hard to include in the chairman and vice chairman's mark only those provisions that had strong bipartisan support. Our rule was if either side objected to a provision, it would not be included. After our markup, we added a number of other good government provisions that had strong bipartisan support. Unfortunately, the committee also added a number of problematic provisions that caused our bill to stall on the floor.

I believed we had largely succeeded in our process of accomplishing the goals of a bipartisan bill. We worked closely with the administration to address some of their concerns. Some were easier to resolve than others. We all know there is one very problematic amendment relating to the Army Field Manual that was added during the conference between the House and the Senate. I will address that later. But now I wish to talk about some of the good things in this conference report.

First, I have often said—and I believe responsible observers now agree—that in creating the Director of National Intelligence, we gave him a tremendous amount of responsibility but darn little authority to get the job done. This conference report attempts to address that problem by giving the DNI clearer authority and greater flexibility to oversee the intelligence community. For example, section 410 gives the DNI statutory authority to use national intelligence program funds quickly to address deficiencies or needs relating to

intelligence information or access or sharing capabilities. The DNI may also use funds to pay for non-NIP—national intelligence program—activities and to address critical gaps in those areas.

Section 409 expands the number of officials in the office of the DNI who can protect sources and methods from unauthorized disclosure. This authority may now be delegated to the Principal Deputy Director of National Intelligence and the chief information officer of the intelligence community. These are all good things, all things the administration needs. We also included provisions that will ensure that the men and women of our intelligence community who must work undercover may do so at less risk of disclosure and, consequently, less risk to their personal safety.

Section 305 allows the DNI to delegate the authority to authorize travel on any common carrier for purposes of preserving cover of certain employees. Section 325 extends to the head of each intelligence community element the authority to exempt certain gifts from otherwise applicable reporting requirements. Without this exemption, detailed information about the receipt of gifts from foreign governments must be published in the Federal Register. Imagine if an undercover agent receives a gift from one of the targets he is working and has to report it in the Federal Register. That not only blows his cover, it probably ends his life. That is a great national security concern to operatives who have received such gifts as part of their covert actions.

One particular provision will reduce the personnel and resources used to respond to many congressional reporting requirements. In section 330—again, in response to a request of the DNI—we eliminated a number of reporting requirements. It is a small step but an important one, as each reporting requirement diverts valuable resources from the intended purpose. I hope, within the 2009 Intelligence Authorization bill, we can make even greater progress in reducing unnecessary and duplicative reporting requirements that burden the intelligence community.

There are a number of provisions in this conference report that are essential for promoting good government. Too often we have seen programs or acquisitions of major systems balloon in cost and decrease in performance. That is unacceptable. We as taxpayers are spending substantial sums of money to ensure that the intelligence community has the tools it needs to keep us safe. If we don't demand accountability in how these tools are operated or created, then we are failing the taxpayers. We are failing the intelligence community. We are failing the mission I would hope we all agree is essential.

I sponsored several amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive cost growth of major systems. This latter provision is modeled on the Nunn-McCurdy provision which has guided Defense Department acquisitions for years. I believe these provisions will encourage earlier identification, the solving of problems relating to the acquisition of major systems. Too often such problems have not been identified until exorbitant sums of money have been spent. In some cases, several billions of dollars have been blown before the waste stopped. Unfortunately, too often, once they have sunk a bunch of money into a project, they refuse to cancel it, even though they are continuing to throw good money after bad.

Similarly, the intelligence community must get a handle on their personnel. I don't share the belief some have that the Office of the Director of National Intelligence is too large. In fact, I think we need to make sure our National Counterterrorism Center and National Counterproliferation Center have more resources, not less. They are the ultimate idea for creating a centralized intelligence community, bringing analysts and collectors together from all of the 16 different elements of the community.

I am concerned about the number of contractors used by the intelligence community to perform functions better left to Government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but too often the quick fix is to hire contractors, not long-term support. So this conference report includes a provision calling for an annual personnel level assessment for the intelligence community. These assessments will ensure that before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

Finally, we have included section 312, which requires the DNI to create a business enterprise architecture that defines all intelligence community business systems. The endgame is to encourage implementation of interoperable intelligence community business systems, getting everyone on the same page; in sum, making sure everybody is talking to each other and everybody who needs to know can listen in, a simple but not-yet-achieved objective. Given the substantial sums of money we are spending on these systems, we should be making certain the systems are efficiently and effectively coordinated; again, a good government provision.

There were a number of adjustments we had to make. We responded to concerns of the administration, and I worked particularly with my Democratic colleagues—and I thank them for their support—to make adjustments that would allow the bill to clear the Senate for the first time in 2 years. Let me highlight some of those adjustments because it is important to remember how much effort it took to return the bill to a bipartisan state.

No. 1, we struck a section that would have required the President to provide Congress with any President's daily brief involving Iraq during a certain time period. The PDBs have not been disclosed. As a matter of fact, they only came to light when a former official in the previous administration put some PDBs in his BVDs and stuck them out at the archives for reasons no one has adequately explained.

We struck two sections that contained controversial notification and funding restrictions. We struck a provision requiring declassification of the budgetary top line of the national intelligence program because it had already passed Congress in S. 4, the so-called 9/11 bill. We struck a section that required the CIA Director to make available to the public a declassified version of a CIA inspector general report on CIA accountability related to the terrorist attacks. That was also required by S. 4. It was about time the CIA internal IG report be made available. Everybody else had to air their failings, and it was time the CIA did so as well.

We struck a section that would have allowed the public interest declassification board to conduct declassification reviews at the request of Congress, regardless of whether the review is requested by the President. We also struck a provision that would have required a national intelligence estimate on global climate change, largely because the DNI, which is not equipped to conduct an NIE on climate change, had outsourced the responsibility for putting together an assessment, and there was no need to mandate this in law.

Finally, we made modifications to at least seven other provisions to address concerns raised by the administration and by our Senate colleagues. The end result was, we get a fiscal year 2008 Intelligence Authorization bill passed out of the Senate by unanimous consent in early October 2007. I thank my colleagues for allowing us to do that. It was long overdue, and it was a badly needed action. Then, however, we went to conference.

I urged my conferees to avoid inclusion of controversial provisions. We kept our negotiations to the base text of both bills. Given that we hadn't had an intel bill during the past 2 years, there were a lot provisions to negotiate. I guess you could say there was a lot of pent-up oversight. After a lot of hard work, we were able to merge the two bills in a manner we believed would receive strong bipartisan support. Unfortunately, despite my warnings, history again repeated itself. During the conference markup, the Senate adopted, by a one-vote margin, a controversial provision that limits the intelligence community to using only those interrogation techniques authorized by the U.S. Army Field Manual on human intelligence collector operations. As I will discuss later, to adopt that provision and put it into law

would, according to the Director of the CIA, shut down the most valuable intelligence collection program the CIA has, a program that has protected our homeland and our troops abroad from terrorist attacks. Because it was adopted, I couldn't sign the conference report that I and my colleagues worked so hard to enact.

Another consequence of that vote was it caused the conference report to languish in the Senate for more than 2 months now. Shortly after the passage of the conference report, the administration released a statement of administration policy and—certainly not to my surprise—at the top of their list of objectionable provisions was the limitation on interrogation techniques provisions. We have heard some misstatements on this floor about interrogation and the techniques used. Frankly, I share some of the same concerns raised by the administration with respect to this provision. Statements made about the interrogation program of the CIA are not accurate. They have been blown totally out of context, and they deserve a response. This section, if it were enacted in law—and it will not be—would prevent the intelligence community from conducting the interrogation of senior al-Qaida terrorists to obtain intelligence needed to protect the country from attack.

During its consideration of the Detainee Treatment Act of 2005, Congress wisely decided that while the Army Field Manual was a good standard for military interrogators who number in the tens of thousands, with limited supervision and limited training, it was not the standard that should be used by the CIA.

CIA interrogators are highly trained, operate under tremendous oversight and rules and supervision in interrogating those top hardened terrorist leaders, who have information on how the system operates and who the major players are. They do not outsource this job to contractors such as Blackwater or others. It is my understanding if they use contractors, it is former interrogators who are brought back in because of their experience. They are subject to the supervision of the CIA, with multiple layers of supervision and oversight by video cameras. It is highly irresponsible to say the CIA has outsourced torture. We do not do torture.

Now, a lot of people say we have lost a lot because of our inhumane treatment. They are referring to Abu Ghraib. We all agree that what was done at Abu Ghraib was inhuman and degrading. But it was not done by anybody in the intelligence field or for intelligence purposes. It was done by renegade troops who have been prosecuted, punished, and imprisoned for the violations of basic decency. Yes, that has hurt us worldwide, but that is not the standard which is allowable, permissible, or acceptable by any of our interrogators.

Mention has been made of eight techniques that are banned in the Army Field Manual. I agree, those techniques that are banned in the Army Field Manual should be banned. Those are not techniques that should be used. The Army Field Manual was meant for the Army in limiting the number of techniques that can be used. It applies to them only for the Army, for the Army's use. There are quite a number of techniques that fall within the same category that are not torture, inhuman, degrading, or cruel. If they are not included in the Army Field Manual, then they would not be permitted to be used, if this were made law, by the CIA, the FBI, or anybody else.

But to apply the Army Field Manual—it says you can only use these interrogation techniques if you get authorization from ''the first 0–6 in the interrogator's chain-of-command''—well, that would mean the CIA would have to go over to the Army and say: Do you have an 0–6 who can come over and look over the shoulders of our interrogators? Well, you do not have to worry about that because the CIA program would be ending.

It allows the Army to set the interrogation standards for the entire intelligence community. It is important that my colleagues recognize this interrogation provision is not an antitorture provision. The previous speakers have said we need to pass this law to outlaw torture. It is outlawed. The law prohibits the United States from using torture. This provision prevents the intelligence community from engaging in other lawful interrogation techniques that fall outside the scope of the Army Field Manual.

Why is that important? Because everything in the Army Field Manual has been published in the al-Qaida manuals. The top officials of al-Qaida know those techniques better than the interrogators know them. They know how to resist them, and they are ineffective.

Now, some on the other side of the aisle would like to frame this provision as being about waterboarding. It is not.

The Attorney General has publicly stated that the CIA no longer uses waterboarding. The technique is not one of the approved techniques. The Director of the CIA has publicly stated that there were only three individuals waterboarded and the technique has not been used since 2003. It was used in the crisis right after 2001, when tremendous amounts of valuable information were gained from the three individuals waterboarded.

What we are talking about here is not waterboarding. Some of my colleagues have said that the EITs are not effective—enhanced interrogation techniques. Well, that is absolutely not true. That is precisely the opposite of what the CIA Director has told us in our classified hearings and explained it.

Now, the CIA Director has said they have held less than 100 people in their custody, and less than one-third of those have been submitted to enhanced interrogation techniques.

These are the hardened terrorists who have the most information that is needed to protect our troops, our allies abroad, and those of us here at home.

Those techniques—which are different from but no harsher than the techniques that are in the Army Field Manual—are unknown to the detainees. Those detainees on whom the EITs—not including waterboarding—have been used have produced the most productive information and intelligence. Literally thousands upon thousands of the most important intelligent collections have come from the cooperating detainees who did not know what was going to happen to them, even though no torture, cruel, inhuman, or degrading techniques were used on them.

Many of the techniques that are used—and I have reviewed them—are far less coercive or strenuous than what we apply to our military volunteers: young men and women of America who join the Marines, the SEALs, the Special Operations Forces, or pilots who go through the survival, evasion, resistance, and escape training, or the SERE training. We do not even use the most strenuous of those techniques on our detainees.

Those who say we do not want our enemies to use any more harsh techniques than we use on them—well, good luck. You have seen Abu Musab al-Zarqawi beheading people. Those are not techniques that anybody would suggest. A beheading probably eliminates a source of further information.

But the problem is, the techniques that are used would be banned. The techniques—that are not cruel, that are not inhuman, that are used on our own voluntary military enlistees—are prohibited because they are not included in the Army Field Manual. One good reason they are not is because we do not want to publicize them or they would no longer be effective in use against those high-value detainees who will not cooperate otherwise. I cannot support a bill that contains that provision.

So here we are on the floor—the farthest we have gotten in 3 years. It looks as though history is going to repeat itself. No wonder congressional ratings are at an all-time low. I believe our inability to work in a bipartisan fashion on a consistent basis may be harming us. Yesterday's success with the FISA Amendments Act is a model example of what can be accomplished when we work together. For the most part, the committee's work on the Intel bill followed that model, although we were unable to protect the bipartisan compromise in the end.

As the vice chairman of the Senate Intelligence Committee, I have invested a very significant amount of time and effort to provide meaningful

oversight of the intelligence community through this bill. I know my distinguished chairman, Senator ROCKEFELLER, has made those same efforts and shares the goal.

However, I have often said that no bill is better than a bad bill. Right now, with this provision in it, this is a bad bill because what it would do, according to the Director of National Intelligence, is to shut down the most effective interrogation program the CIA has to use to induce cooperation from those leaders of al-Qaida and other terrorist organizations who know about the plots to attack the United States and to attack our allies.

Mr. President, I urge my colleagues to support cloture so we can move forward on the process on this legislation, but the President has stated he will veto the bill and, regrettably, I must say that despite all the good things in the bill, he is correct. We cannot afford the risk to this country, to our personal safety, to our desire to avoid another 9/11, by saying we can no longer allow the CIA to use the acceptable techniques that are not published but that are very effective in assuring cooperation of high-value detainees whom we in this country capture through the CIA. Regrettably, while I urge my colleagues to support cloture, I cannot urge them to pass this measure.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Oregon.

Mr. WYDEN. Mr. President, how much time do I have remaining at this time?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. WYDEN. Mr. President and colleagues, I ask unanimous consent to have my time—you said I have 3 minutes; I see my friend on the floor—to have my time extended by 3 minutes so I would have a total of 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. That is acceptable. No objection.

Mr. President, I ask unanimous consent for 2 additional minutes after that, if that could be part of the request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, thank you, and I thank my friend from Missouri as well.

I especially want to express my appreciation for the outstanding work of Senator FEINSTEIN, my seatmate on the Intelligence Committee, who I think understands it is possible in this country to fight terrorism ferociously and still be sensitive to American values and the rule of law. That is what I want to spend a few minutes talking about because I think under the approach developed by Senator FEINSTEIN this legislation does that.

I start by responding to the point my friend from Missouri has made about the most dangerous terrorists whom we are involved in interrogating. It seems to me these individuals are literally human ticking timebombs. They have information, for example, about operations we absolutely must have information on in order to protect the American people. But I have come to the conclusion it is possible to get this essential information we need from these human ticking timebombs—the time-sensitive threat information—without practices that violate our values and violate the rule of law.

The reason I have come to that conclusion—and why I so strongly support what Senator FEINSTEIN is doing—that is what some of our key officials tell us in the executive branch. For example, this week, I asked FBI Director Mueller about whether it was possible to use noncoercive techniques effectively in terms of getting this information from human ticking timebombs, and the Director said, to his credit, yes, it was possible to use noncoercive techniques to get the information necessary to protect the United States of America. The fact is, the military has said it as well.

It is that core principle Senator FEINSTEIN has picked up in her work. She believes, as I do, we will take no backseat to anyone in terms of fighting the terrorists relentlessly, but we can do it, as Director Mueller and the military have said, in line with the rule of law and in line with American values.

With respect to the role of the military, they already abide by interrogation rules that are flexible and effective. They have been used by professional military interrogators with many years of experience, and they are clearly effective.

Some have suggested, incorrectly in my view, that the military rules make better interrogators, follow the same rules as new recruits, but that is not right. The Army Field Manual actually makes it quite clear which techniques are authorized for all servicemembers and which require special permission to use.

It is my view that our country has paid dearly for this secret interrogation program. My friend from Missouri has indicated, in his view, you cannot torture, but the case was strong for the Feinstein amendment a couple months ago, and it is even stronger today because General Hayden has said that in the past, waterboarding has been used and, in fact, my view is that the need for this legislation, just on the basis of the developments over the last few weeks, is even more important than it was because these practices that have come to light in the last few weeks have damaged our relations, damaged our moral authority.

The tragic part of this, on the basis of the answers from Mr. Mueller in open session this week and the military is that these coercive techniques are not effective or even necessary. I share the view of my friend from Missouri about how important it is to get this time-sensitive threat information.

He and I have talked about this on many occasions. Of course, we cannot get into any of the matters that are classified. I share his view, but it is possible, I say to my colleagues, to get that information without breaching the values Americans hold dearly and the rule of law.

I hope my colleagues will support the important work by the Senator from California. This is an issue we have looked at. It has had bipartisan support in the past.

I am very appreciative of what Senator MCCAIN, who knows a little bit about this, has had to say in the past about fighting terrorism relentlessly and protecting our values.

I hope my colleagues will support the efforts of the Senator from California. If her case was strong several months ago, I think it is even stronger today on the basis of what we have learned in open session.

Mr. FEINGOLD. Mr. President, I support the intelligence authorization conference report, which is so important to Congress's efforts to conduct oversight of the intelligence community. The administration's illegal actions and its relentless efforts to obtain vast new eavesdropping authorities make oversight more important than ever. I particularly support the provision limiting interrogation techniques to those authorized by the Army Field Manual. I was a cosponsor of this amendment when it was offered in conference, and I am pleased that it has the support of bipartisan majorities of both the Senate and House Intelligence Committees. It represents, at long last, an important step toward bringing this administration into conformity with the law and with our national principles. It also represents a clear decision by the very Members of Congress who have been briefed on the CIA's interrogation program that the use of so-called enhanced interrogation techniques is not in our country's best interests.

When the intelligence authorization bill was marked up by the committee in May, I made my position clear. I could not support the CIA's program on moral, legal, or national security grounds. When I was finally fully briefed on the program, it was clear that what was going on was profoundly wrong. It did not represent what we, as a nation, stand for, or what we are fighting for in this global struggle against al-Qaida. And it was not making our country any safer. I also concluded that if the American people knew what we in the Intelligence Committee knew, they would agree.

The program also cannot stand up to any serious legal scrutiny. To take just one interrogation technique that the administration has acknowledged using in the past, waterboarding is torture, pure and simple. Everyone knows this. The rest of the world knows this. And, in every other context, our own government knows this. What Orwellian

world do we inhabit in which the administration attempts to argue otherwise? And in what world does waterboarding not ''shock the conscience,'' the test required by the Detainee Treatment Act? I suspect that the administration knows full well that its legal justifications for the program are empty, and that is why the Attorney General has refused to tell Congress why he believes the program is legal and has instead referenced Justice Department analyses that have also been withheld from Congress.

The CIA's interrogation policy is undermining our ability to fight al-Qaida. It has diminished our standing in the world, precisely when we should be providing global leadership against this growing threat. And it has denied us the moral high ground that is so critical if we are to reach out to parts of the world in which al-Qaida seeks to operate and recruit. By passing this conference report, we can begin to reverse this damage. We can also, finally, reassure our troops that torture is torture and that if you are captured by the enemy, the American government will not equivocate about the Geneva Conventions protections to which you are entitled.

The administration has repeatedly attempted to sell this program by arguing that Members of Congress have been briefed, as if the mere fact of telling members of Congress means that the program must be legal. The President made this argument last fall. And the Director of the CIA did so again last week. But, what the administration always fails to mention is that as members of the Intelligence Committees have learned about the program, opposition has steadily increased. I have sent a classified letter detailing my serious concerns and so, too, have others. And now, we have bipartisan majorities of both intelligence committees saying ''enough is enough.''

It has long been my position that interrogation techniques should be limited to those authorized by the Army Field Manual. This approach brings the CIA into conformity with the rules by which our men and women in uniform defend our nation and themselves. We fought Nazi Germany and the battles of the Cold War without resorting to government-sanctioned torture. We can surely defend America and defend our principles now. It is time to bring an end to this stain on our Nation, and to make the American people proud again.

Mr. LEAHY. Mr. Presdient, this Report contains a provision that reinforces the prohibition against our Government engaging in torture. It expressly prohibits interrogation techniques that are not authorized by the United States Army Field Manual. By passing this bill, we will not only respond to this administration's ambiguity about torture by reiterating that it is off the table, we will be sending a message to the world that the United States is a country that does not tolerate torture. Whether waterboarding is torture and illegal does not depend on the circumstances.

When it comes to our core values—that which makes our country great and defines America's place in the world—it does not depend on the circumstances. America, the great and good Nation that has been a beacon to the world on human rights, does not torture and should stand against torture.

Let me be clear. This provision should not be necessary. Waterboarding, and other forms of torture, are already clearly illegal. Waterboarding has been recognized as torture for the last 500 years. President Teddy Roosevelt prosecuted American soldiers for waterboarding more than 100 years ago. We prosecuted Japanese soldiers for waterboarding Americans during World War II.

I support this provision, despite the fact that there is no question that waterboarding is already illegal, because this administration has chosen to ignore the law. They have admitted they have engaged in waterboarding, otherwise known as water torture, and they refuse to say they will not do it again. The positions they have taken publicly on this subject are, I believe, so destructive to the core values of this Nation and our standing in the world, that this Congress should say, again—very clearly—that our Government is not permitted to engage in these shameful practices.

Tragically, this administration has so twisted America's role, laws and values that our own State Department and high-ranking officials in our Department of Justice cannot say that waterboarding of an American is illegal. If an enemy decided to waterboard an American soldier, they can now quote statements from high officials in our own Government to support their argument that the technique breaks no laws. That is how low we have sunk.

Our top military lawyers and our generals and admirals understand this issue. They have said consistently that waterboarding is torture and is illegal. They have told us again and again at hearings and in letters that intelligence gathered through cruel techniques like waterboarding is not reliable, and that our use and endorsement of these techniques puts our brave men and women serving in the armed forces at risk. That is why they have so explicitly prohibited such techniques in their own Army Field Manual, and it is an example that the rest of the Government should follow.

So, despite the fact that the law is already clear, I urge the Senate to pass this provision, and I urge the President to promptly sign it into law, making the policy of our Nation clear. Our values cannot permit this to be an open question. We must put an end to the damage that this administration's positions have caused to our standing and the risks that they have taken with the safety of American citizens and soldiers around the world.

Mr. LEVIN. Mr. President, I urge my colleagues to support the intelligence authorization conference report which includes a requirement that all Government agencies, including the CIA, comply with the Army Field Manual on Interrogations in the treatment and interrogation of detainees.

The result will be a single standard of treatment for detainees, a standard consistent with American values and international standards. The Army Field Manual is consistent with our obligations under Common Article 3 of the Geneva Conventions, which prohibits subjecting detainees to ''cruel treatment and torture.'' This is the standard to which our soldiers are trained and which they live by.

Consistent with this standard, the Army Field Manual specifically prohibits certain interrogation techniques. These include: forced nudity; ''waterboarding,'' that is, inducing the sensation of drowning; using military working dogs in interrogations; subjecting detainees to extreme temperatures; and mock executions.

Unfortunately, the Bush administration has insisted that it reserves the right for the CIA to engage in certain ''enhanced interrogation techniques.'' It has been reported that these CIA techniques include ''waterboarding.'' While this Justice Department continues to refuse to say one way or the other, let there be no doubt: waterboarding is torture.

The Judge Advocates General of all four services have told us unequivocally that waterboarding is illegal.

Requiring that all Government agencies comply with the standards of the Army Field Manual is not mushy intellectualism. It is hard-headed pragmatism. When we fail to live up to our own standards for humane treatment, we compromise our moral authority. Our security depends on the willingness of others to work with us and share information, information which could prevent the next attack. When we project moral hypocrisy, we lose the support of the world in the fight against the extremists.

Requiring a single standard for the treatment of detainees consistent with the Army Field Manual protects our men and women in uniform, should they be captured. It strengthens our hand in demanding that American prisoners be treated humanely, consistent with values embodied in the Field Manual.

I urge my colleagues to support the intelligence authorization conference report with the provision that standards in the Army Field Manual for treatment of detainees will apply to all elements of the intelligence community.

Mr. GRAHAM. Mr. President, I oppose the conference report on the intelligence authorization bill.

I was troubled to learn the Intelligence Committees inserted in the conference report a provision to apply

the Army Field Manual to the CIA program. This was done without any hearing or vote in either the House or the Senate.

I strongly regret the committee chose this course of action since it denies the Senate the opportunity to fully appreciate the implications of such a restriction on the CIA program.

It would be a colossal mistake for us to apply the Army Field Manual to the operations of the CIA. I have been briefed on the current CIA program to interrogate high value targets. It is aggressive, effective, lawful and in compliance with our legal obligations. Unfortunately, the intelligence authorization bill as currently drafted will destroy the CIA program.

I believe in flexibility for the CIA program within the boundaries of current law. The CIA must have the ability to gather intelligence for the war on terror. In this new war, knowledge of the enemy and its plan is vitally important and the Army Field Manual provision will weaken our intelligence gathering operations.

It is regrettable that the debate on the intelligence authorization bill has become a debate about waterboarding. Waterboarding is not part of the CIA program.

However, waterboarding, under any circumstances, represents a clear violation of U.S. law and it was the clear intent of Congress to prohibit this practice. In 2005 and 2006, the Senate overwhelmingly and in a bipartisan fashion stood up against cruel, inhuman and degrading treatment and abided by the Supreme Court's decision in the Hamdan case that that those in our custody are protected by the Geneva Conventions. Indeed, senior administration officials assured us that the language contained in the Military Commissions Act clearly outlawed waterboarding.

Imagine my surprise when the Attorney General and Director of National Intelligence stated that waterboarding may be legal in certain circumstances. I cannot understand what legal reasoning could possibly lead them to this conclusion.

Given the Attorney General's recognition during his nomination hearing that the President cannot waive congressionally mandated restrictions on interrogation techniques, including those included in the McCain amendment and the Military Commissions Act, it is inexplicable that the administration not only has failed to publicly declare waterboarding illegal, but has actually indicated that it may be legal.

During the past several weeks we have heard many justifications for the administration's incomprehensible legal analysis. At the end of the day, it appears it is the view of the administration is that the ends justify the means and that adhering to our values, laws, and treaty obligations will weaken our nation. I strongly disagree.

I support aggressive interrogation of detainees in the in the war on terror. And the CIA program is a vital component in securing our Nation. As we interrogate and detain those who are intent on destruction of our country and all those who fight for liberty, we can never forget that we are, first and foremost, Americans. The laws and values that have built our Nation are a source of strength, not weakness, and we will win the war on terror not in spite of devotion to our cherished values but because we have held fast to them.

Mr. McCAIN. Mr. President, I oppose passage of the intelligence authorization conference report in its current form.

During conference proceedings, conferees voted by a narrow margin to include a provision that would apply the Army Field Manual to the interrogation activities of the Central Intelligence Agency. The sponsors of that provision have stated that their goal is to ensure that detainees under American control are not subject to torture. I strongly share this goal, and believe that only by ensuring that the United States adheres to our international obligations and our deepest values can we maintain the moral credibility that is our greatest asset in the war on terror.

That is why I fought for passage of the Detainee Treatment Act, DTA, which applied the Army Field Manual on interrogation to all military detainees and barred cruel, inhumane and degrading treatment of any detainee held by any agency. In 2006, I insisted that the Military Commissions Act, MCA, preserve the undiluted protections of Common Article 3 of the Geneva Conventions for our personnel in the field. And I have expressed repeatedly my view that the controversial technique known as ''waterboarding'' constitutes nothing less than illegal torture.

Throughout these debates, I have said that it was not my intent to eliminate the CIA interrogation program, but rather to ensure that the techniques it employs are humane and do not include such extreme techniques as waterboarding. I said on the Senate floor during the debate over the Military Commissions Act, ''Let me state this flatly: it was never our purpose to prevent the CIA from detaining and interrogating terrorists. On the contrary, it is important to the war on terror that the CIA have the ability to do so. At the same time, the CIA's interrogation program has to abide by the rules, including the standards of the Detainee Treatment Act.'' This remains my view today.

When, in 2005, the Congress voted to apply the field manual to the Department of Defense, it deliberately excluded the CIA. The field manual, a public document written for military use, is not always directly translatable to use by intelligence officers. In view of this, the legislation allowed the CIA to retain the capacity to employ alternative interrogation techniques. I would emphasize that the DTA permits the CIA to use different techniques than the military employs but that it is not intended to permit the CIA to use unduly coercive techniques—indeed, the same act prohibits the use of any cruel, inhumane, or degrading treatment.

Similarly, as I stated after passage of the Military Commissions Act in 2006, nothing contained in that bill would require the closure of the CIA's detainee program; the only requirement was that any such program be in accordance with law and our treaty obligations, including Geneva Common Article 3.

The conference report would go beyond any of the recent laws that I just mentioned—laws that were extensively debated and considered—by bringing the CIA under the Army Field Manual, extinguishing thereby the ability of that agency to employ any interrogation technique beyond those publicly listed and formulated for military use. I cannot support such a step because I have not been convinced that the Congress erred by deliberately excluding the CIA. I believe that our energies are better directed at ensuring that all techniques, whether used by the military or the CIA, are in full compliance with our international obligations and in accordance with our deepest values. What we need is not to tie the CIA to the Army Field Manual but rather to have a good faith interpretation of the statutes that guide what is permissible in the CIA program.

This necessarily brings us to the question of waterboarding. Administration officials have stated in recent days that this technique is no longer in use, but they have declined to say that it is illegal under current law. I believe that it is clearly illegal and that we should publicly recognize this fact.

In assessing the legality of waterboarding, the administration has chosen to apply a ''shocks the conscience'' analysis to its interpretation of the DTA. I stated during the passage of that law that a fair reading of the prohibition on cruel, inhumane, and degrading treatment outlaws waterboarding and other extreme techniques. It is, or should be, beyond dispute that waterboarding ''shocks the conscience.''

It is also incontestable that waterboarding is outlawed by the Military Commissions Act, and it was the clear intent of Congress to prohibit the practice. The MCA enumerates grave breaches of Common Article 3 of the Geneva Conventions that constitute offenses under the War Crimes Act. Among these is an explicit prohibition on acts that inflict ''serious and nontransitory mental harm,'' which the MCA states ''need not be prolonged.'' Staging a mock execution by inducing the misperception of drowning is a clear violation of this standard. Indeed, during the negotiations, we were personally assured by administration officials that this language, which applies to all agencies of the U.S. Government, prohibited waterboarding.

It is unfortunate that the reluctance of officials to stand by this straightforward conclusion has produced in the Congress such frustration that we are today debating whether to apply a military field manual to nonmilitary intelligence activities. It would be far better, I believe, for the administration to state forthrightly what is clear in current law—that anyone who engages in waterboarding, on behalf of any U.S. Government agency, puts himself at risk of criminal prosecution and civil liability.

We have come a long way in the fight against violent extremists, and the road to victory will be longer still. I support a robust offensive to wage and prevail in this struggle. But as we confront those committed to our destruction, it is vital that we never forget that we are, first and foremost, Americans. The laws and values that have built our Nation are a source of strength, not weakness, and we will win the war on terror not in spite of devotion to our cherished values but because we have held fast to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have enjoyed a good working relationship with my good friend, the Senator from Oregon, but, unfortunately, he did not listen to all the testimony we had from the leaders of the intelligence community.

While he suggests we must fight terrorism and uphold our values, that is precisely what the CIA program is designed to do. Going forward, that is the program that will comport with all our values and our views, but it will be necessary.

The CIA's enhanced interrogation techniques, on which he and I have had the opportunity to be briefed, are different from but not outside the scope of those included for use in the Army Field Manual.

As I stated previously, the difference is that since they are not published, as the Army Field Manual is, they are not included in the al-Qaida handbook, they are not known to high-value targets with whom we may come in contact and be able to capture. We are talking only of a couple or three dozen at the most who require those techniques.

He said the FBI Director does not use any harsh techniques. But if you recall, in answer to one of my questions describing one of the techniques one of the FBI interrogators used, it is not in the Army Field Manual. They use different techniques. They use different techniques, but they would be limited to the Army Field Manual.

I suggest that when they are dealing with the criminals who may not be part of an organized terrorist conspiracy, they would not necessarily need to use them.

General Hayden did say that waterboarding was used three times in the past. He has stated clearly it is not being used now. He stated the different enhanced interrogation techniques that are similar to, but different from, the Army Field Manual are only used in very limited circumstances, and those circumstances are the circumstances in which high-value detainees, with knowledge of the organization, the threats they pose, the plots they are planning to undertake, will not talk as long as they are subjected only to techniques they are familiar with in the Army Field Manual.

Yes, the CIA, a couple, three dozen, somewhere in there, may have used enhanced interrogation techniques. Almost 10,000 valuable pieces of information have come from the CIA's program. We are safer in the United States because we have disrupted plots from Fort Dix to Lackawanna to Chicago to Torrance, CA—across this Nation—because of good intelligence—electronic surveillance and enhanced interrogation of high-value detainees.

If we take this step in the Congress, I believe the President will veto it, as he should, because to say that the CIA should be fitted into the Army Field Manual standard is, I believe, a real threat to the effectiveness of our collection.

Regrettably, discussions that imply on this floor that we continue to use or will continue to use any techniques that are cruel, inhumane, degrading or torture is not only simply wrong—flat wrong—but it is irresponsible because there are ears and eyes out there in the world, Al-Jazeera's and others, who will be picking them up, who will be transmitting them, and who will use that to tar the reputation of our intelligence collectors. They do not deserve that. Our security does not deserve that.

Let's be clear, we are not talking about any cruel, inhumane, degrading or torture techniques. They are different than what is published in the Army Field Manual. That is the only reason they are effective.

I regret the measure before us has this ban that will shut down the most valuable source of information our intelligence community has.

I cannot urge my colleagues to support final passage of this conference report.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I will use leader time to make a statement.

We are going to vote in a few moments whether to invoke cloture on the intelligence authorization conference report. It is my understanding the minority is going to support us on this vote. I appreciate that very much.

America has been without an intelligence authorization bill for almost 3 years. That is certainly long enough. The bill before us contains many important provisions that will strengthen our intelligence capabilities to fight terrorism and keep our country safe. The bill includes a number of provisions that will begin to restore proper congressional oversight and includes a provision sponsored by Senator FEINSTEIN that will require all intelligence professionals in the U.S. Government to adhere to the interrogation standards included in the Army Field Manual.

I appreciate the work of Senator FEINSTEIN, who has dedicated much of her life to making our country safer. She spends untold hours, along with other Intelligence Committee members, in the Hart Building, listening to and evaluating what is happening in the intelligence community in our country and around the world. She is a good Senator, and her insight into what needs to be done in this instance speaks volumes. I underline and underscore my appreciation for her work. I urge all my colleagues to join with me in voting to support her in this effort. We will have that opportunity because cloture is going to be invoked.

It is my understanding a Republican or a Democrat will raise a point of order regarding the Feinstein amendment. The reason a Democrat would do it is to move this along, to get this over with. There is no reason to wait 30 hours postcloture, with everyone wondering when it will come up. We should do it, get it out of the way, work out some agreeable time with my colleagues, or we will go ahead and do it ourselves. There is an hour under the rule to debate the motion. There will be an effort to waive this point of order which, under the rules, requires 60 votes. Should Republicans force a vote to waive the point of order, I urge all my colleagues to waive the point of order.

This is a question of moral authority. The Senate should stand as one to declare that America has one standard of interrogation. We are living as Americans in a world where everything we do is watched and watched very closely. We are asking other countries to follow our moral lead, to embrace our way of life, to aspire to the American standard of liberty. Yet I fear too often this administration's actions betray those goals.

A couple weeks ago, Attorney General Mukasey refused to say that waterboarding is legal. What is waterboarding? We know what it is. It came from the Inquisition and King Ferdinand and Queen Isabella. That is where it originated. It is nothing new. It has been going on for centuries, and it is torture at its worst where you, in effect, drown somebody and revive them after they can no longer breathe.

Last week, CIA Director Hayden publicly confirmed the United States had waterboarded individuals who were in our custody. The next day, the White House affirmatively declared waterboarding is legal and President Bush is free to authorize our intelligence agencies to resume its use.

President Bush may not care much what we in Congress, Democrats or Republicans, think. For 6 years, he had carte blanche to do what he wanted.

The last year has not been that way. We are an equal branch of Government, and it is time we made him understand this.

The administration can develop as many novel and convoluted legal theories as it wishes, but they cannot change the simple fact that has long been settled law, that waterboarding is torture and it is illegal. It is illegal in America, and it is illegal throughout the world. In decades past, America has prosecuted our enemies and even our own troops for waterboarding.

This debate is not just about one kind of torture. It is not just about waterboarding. It is about ensuring that no form of torture, cruel or inhumane interrogation techniques that are illegal under the Geneva Conventions and prohibited by the Army Field Manual, are used. This includes beating prisoners. This includes sexually humiliating prisoners. It includes threatening them with dogs, depriving them of food and water, performing mock executions, putting electricity charges on various parts of their body, burning them.

These techniques are repugnant. They are repugnant to every American. They fly in the face of our most basic values. They should be completely off limits to the U.S. Government. We have already seen the damage these torture efforts can cause. The world saw it in the Abu Ghraib prison situation. The revelation that American personnel had engaged in such terrible behavior, behavior we have always strongly condemned when used by others, caused tremendous damage to our Nation's moral authority. The recruiting opportunity it provided our terrorist enemies cannot be understated and cannot be undone.

This is not a Senator saying this. Forty-three retired military leaders of the U.S. Armed Forces have written us a letter strongly stating that all U.S. personnel, military and civilian, should be held to a single standard. These honored leaders wrote:

> We believe it is vital to the safety of our men and women in uniform that the United States not sanction the use of interrogation methods it would find unacceptable if inflicted by the enemy against captured Americans.

They stated the interrogation methods in the Army Field Manual ''have proven effective'' and that they ''are sophisticated and flexible.''

My friend, the ranking member of this committee, says these horrible techniques are necessary. They are not. They are not necessary. There are many things that have been used and can be used, as indicated by these 43 leading military experts. They say present interrogation techniques, setting these others aside, are sophisticated and flexible and they work. They explicitly reject the argument that the field manual is too simplistic for civilian interrogators.

Our commander in Iraq, General Petraeus, a four-star general, whom we like to throw around here as knowing all and has done a wonderful job in Iraq, wrote an open letter to the troops in May. He had this to say:

> Some may argue that we would be more effective if we sanctioned torture and other expedient methods to obtain information from the enemy.

He went on to say:

> They would be wrong. . . . [H]istory shows that [such actions] are frequently neither useful nor necessary.
>
> Certainly, extreme physical action can make someone ''talk;'' however, what the individual says may be of questionable value.

We all know that.

> In fact, our experience in applying the interrogation standards laid out in the Army Field Manual . . . shows that the techniques in the manual work effectively and humanely in eliciting information from detainees.

So says General Petraeus.

Mr. President, just yesterday, a bipartisan group of foreign policy experts joined to call upon Congress to endorse the application of the Army Field Manual standards across all U.S. agencies.

The group included, but was not limited to, the Chairman and Vice Chairman of the 9/11 Commission, Governor Keane and Congressman Hamilton; two former Secretaries of State; three former national security advisers; a former Secretary of the Navy; and other highly regarded officials from both parties.

The Bush administration's continued insistence on its right to use abusive techniques gives license to our enemies abroad, puts at risk our soldiers and citizens who may fall into enemy hands, and serves as an ongoing recruiting tool for militant extremists.

Meanwhile, the widespread belief that our country uses abusive interrogation methods has weakened our ability to create coalitions of our allies to fight our enemies because other countries have at times refused to join us.

Mr. President, many of us thought the Congress had addressed the issue of torture once and for all when we overwhelmingly passed the McCain amendment in 2005.

But President Bush immediately issued a signing statement casting doubt on his willingness to enforce a ban on torture, and his administration has worked ever since to undermine what Senator MCCAIN offered and was passed here overwhelmingly.

This vote today gives Congress the chance to show President Bush that we meant what we said 3 years ago when we passed the McCain amendment.

Today, we have an opportunity to begin to rebuild America's precious and diminished moral authority. Today, we can strengthen the war on terror.

I urge us to stand together to support cloture and, if necessary, to vote to waive the point of order on the Feinstein amendment, which is part of the very good conference report dealing with intelligence authorization.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 23 seconds.

Mr. BOND. Mr. President, regrettably, the record doesn't meet the issue before us. Waterboarding is not an issue here. Waterboarding is not banned. The techniques that are being used are in compliance with all of the convention. They are not torture, cruel, or humanly degrading.

The only reason to have a separate program, which Congress recognized in the 2005 Military Detainee Act, for having a different standard was for a few high-value targets who needed different techniques—not more harsh techniques but techniques that are less severe than the training techniques we put our enlisted Marines, SEALs, Special Forces, and the pilots through. If they are not published in the Army Field Manual, they don't know about them, and that leads them to cooperate.

The most successful intelligence collection program that the CIA has does not involve torture or any kind of unlawful conduct. It is unfortunate—and I regret to say very harmful—to the United States to suggest that it does. I strongly believe we cannot afford to shut down the CIA's interrogation of high-value detainees.

I yield the floor.

Mr. REID. Mr. President, don't you think this great country of ours—the moral authority of the world—can continue our work, our interrogation of prisoners, both military and civilian, by not beating them, sexually humiliating them, bringing dogs and having dogs chomp at them, like at Abu Ghraib? Do we need to deprive them of food and water, provide mock executions, shock them with electricity, as was done during the first gulf war to American prisoners who were captured by the Iraqis, one of whom was from Nevada? We don't need to do that. We don't need to burn them. We don't need to cause them other types of pain that are listed in field manuals.

Mr. President, we have 43 leading military experts who have told us that. We have had the two people who led the 9/11 Commission who have told us that you don't need that, along with former Secretaries of State and national security advisers to various Presidents, Democrats and Republicans.

America is better than this. We don't need to do this. The CIA can get along without having to do all these terrible things. We are told by General Petraeus that these techniques don't work anyway and that any of the information you get is unreliable. Listen to General Petraeus. Let's do the right thing on this issue when it comes up, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2008—CONFERENCE REPORT—Resumed

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 2082, Intelligence Authorization Act.

John D. Rockefeller IV, Dianne Feinstein, Kent Conrad, E. Benjamin Nelson, Russell D. Feingold, Barbara A. Mikulski, Ron Wyden, Ken Salazar, Mark Pryor, Patty Murray, Benjamin L. Cardin, Frank R. Lautenberg, Jack Reed, Sheldon Whitehouse, Harry Reid, Carl Levin, Bill Nelson.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2082, the Intelligence Authorization Act, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—92

Akaka	Corker	Kerry
Alexander	Cornyn	Klobuchar
Allard	Craig	Kohl
Barrasso	Crapo	Kyl
Baucus	Dodd	Landrieu
Bayh	Dole	Lautenberg
Bennett	Domenici	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Lieberman
Bond	Ensign	Lincoln
Boxer	Enzi	Lugar
Brown	Feingold	Martinez
Brownback	Feinstein	McCain
Bunning	Grassley	McConnell
Byrd	Gregg	Menendez
Cantwell	Hagel	Mikulski
Cardin	Harkin	Murkowski
Carper	Hatch	Murray
Casey	Hutchison	Nelson (FL)
Coburn	Inhofe	Nelson (NE)
Cochran	Inouye	Pryor
Coleman	Isakson	Reed
Collins	Johnson	Reid
Conrad	Kennedy	Roberts
Rockefeller	Snowe	Voinovich
Salazar	Specter	Warner
Sanders	Stabenow	Webb
Schumer	Stevens	Whitehouse
Sessions	Sununu	Wicker
Shelby	Tester	Wyden
Smith	Thune	

NAYS—4

Burr	DeMint
Chambliss	Vitter

NOT VOTING—4

Clinton	McCaskill
Graham	Obama

The motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, while we are waiting here for some of the determination of a time agreement with regards to the consideration of the conference report, I want to go ahead and lend my support and acknowledge to the rest of the Senate that this is a bill that is very necessary to pass. Because, what this bill does, by authorizing the activities of the intelligence community, it continues to make the oversight function of the Congress—in particular, the Senate and the House Intelligence Committees—poignant and relevant to a community that is not accustomed to having oversight.

Our committee leadership, chairman and vice chairman, Senators Rockefeller and Bond, as we say in the South, they have cracked the whip with the intelligence community to get them to realize that this is a constitutional government of shared powers; that the executive branch doesn't just run the show—particularly on something as sensitive as the collection of intelligence. Rather, it needs to be done within the law, and one of the ways of ensuring that is through the sharing of powers between two different branches of Government who have checks and balances upon each other. We in the legislative branch oversee the activities of the executive branch—in this case, all of the intelligence community and their activities, which are absolutely essential to the protection of our country. This conference report is a very important bipartisan document, which increases the accountability in the intelligence community, and it authorizes dozens of critical intelligence programs to keep us safe every day.

The conference report includes a new, strong inspector general in the Office of the Director of National Intelligence. Inspectors general are increasingly important in the intelligence community, where billions of dollars are spent outside of public view. Our committee, as well as the American public, has to rely on the inspector general as an important part of the oversight of the intelligence community.

As we look back, several years ago, we completely reorganized the intelligence community. A Director of National Intelligence was set up to integrate the disparate elements of the intelligence community. But there is a lot more that needs to be done, and a strong inspector general at the DNI is another step in the right direction.

The conference report also includes a provision that makes the Director of the NRO—the National Reconnaissance Office—and the NSA—the National Security Agency—subject to Senate confirmation. Now, why is that important? That is important because, again, it is part of the checks and balances of the separate branches of Government. Both of these agencies, outside of the public view because of the top-secret nature of this work, oversee large programs that cost vast amounts of money, and not every program has been a success. So by having the confirmations of the Directors of the NRO and the NSA come to the Senate, it improves that accountability and responsiveness to the legislative branch of Government.

The authorization bill also requires an assessment of the vulnerability of the intelligence community's major acquisition programs. We have to assess that the program is going to stay on track and that it is not going off the rails with regard to cost. We are talking about billions of dollars on some of these programs. By keeping them on track, by knowing what to anticipate, it is much easier to plan ahead.

This bill also provides an annual reporting system which will help us keep in focus, curbing these cost overruns and these schedule delays. If you don't do that, things are going to get out of control. As the intelligence community continues to be more and more sophisticated because of the technical means it employs, it is more and more important that our oversight tools be in place and effective.

Now, that is enough alone to pass this bill, but we have an area of disagreement coming up. We are expecting the minority to offer a point of order that would remove a provision in the conference report. This provision requires the Army Field Manual to be used as the standard for interrogation methods. This Army Field Manual was released over a year ago. It specifically prohibits cruel, inhuman, and degrading treatment.

There are eight techniques in the Army Field Manual that are specifically prohibited from being used in conjunction with intelligence interrogations: forcing the detainee to be naked, perform sexual acts, or pose in a sexual manner; placing hoods or sacks over the head of a detainee; using

duct tape on the eyes; applying beatings, electric shock, burns, or other forms of physical pain. The fourth is waterboarding. That is prohibited. The fifth is using military working dogs. The sixth is inducing hypothermia or heat energy. The seventh is conducting a mock execution. The eighth is depriving the detainee of necessary food, water, and medical care.

Now, haven't I just described what America is all about? Is that not the standard by which we, as the leader of the world, have to announce to the world what we believe in and how we are going to conduct ourselves, and that is how we are going to conduct ourselves not only among our own people and how we treat them but how we are going to treat others?

The manual provides that three interrogation techniques may only be used with higher level approval. The good cop-bad cop interrogation tactic; the false flag tactic, where a detainee is made to believe he is being held by another country; or separation, by which the detainee is separated so he can't coordinate with other detainees on his story—those techniques can be used, but it has to be approved at a higher level.

Mr. President, there is something that is going to worry everybody, and it has worried this Senator personally and as a member of the Intelligence Committee. What if all of this doesn't work and the country is in imminent peril? Well, along with the standards we are going to set, which I hope we are going to pass into law—these standards in the Army Field Manual which will state clearly what the standards are for our country and how we are going to conduct ourselves—there is always the constitutional authority under article II.

As Commander in Chief, the President can act when the country is in immediate peril. And if he so chooses, as Commander in Chief, to authorize activities other than what the Army Field Manual allows, then the President would be accountable directly to the American people under the circumstances with which he invoked that article II authority as Commander in Chief.

What we are saying today does not relate to the President's article II power. We are setting statutory power. It is important that we tell the rest of the world the standards of how we interrogate detainees. We are putting these standards into law and we will ensure that these techniques are in compliance with the humane treatment that we would expect and hope our Americans would also receive.

I think there should be no confusion. We have an obligation to set these standards into law. If that dire emergency ever occurred in the future, the President has his own authority under article II of the Constitution. But that is not the question here today before us. The question is: What do we set as the standard of interrogation, and that has to be that there is no torture allowed under this statutory law.

Therefore, when the point of order is raised that would take the Army Field Manual standards for interrogation techniques out of the conference report, I urge the Senators not to take this provision out of this important intelligence reauthorization bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senate will soon vote on the intelligence authorization bill, which contains a provision requiring all U.S. governmental agencies, including the CIA, to comply with the Army Field Manual's prohibition on torture. This reform is urgently needed. I commend the Intelligence Committee for adopting this provision. Its enactment will ensure that the Government uses only interrogation techniques that are lawful and those provisions should be retained.

In the Detainee Treatment Act passed in 2005, Congress attempted to reaffirm our commitment to the basic rights enshrined in the Geneva Conventions and restore America's standing in the eyes of the world as a nation that treats detainees with dignity and respect.

These rights reflect the values we cherish as a free society, and also protects the lives of our service men and women. Today, however, we know that the 2005 act has fallen short of our goals. By not explicitly applying the Army Field Manual standards to all Government agencies, we have left open a loophole that the Bush administration promptly drove a Mack truck through.

The so-called enhanced interrogation program carried out in secret sites became an international scandal and a profound stain on America in the eyes of the world. The administration issued an executive order last year to try to minimize the outcry, but the order failed to renounce abuses such as waterboarding, mock executions, use of attack dogs, beatings, and electric shocks.

The disclosure of secret opinions by the Office of Legal Counsel gave further evidence that the administration had interpreted the Detainee Treatment Act and other antitorture laws in an unacceptable, narrow manner.

Attorney General Mukasey's refusal at his confirmation hearings to say whether waterboarding is illegal gave us even more reason for concern. The outrages do not end there. Two months ago, the New York Times reported that in 2005 the CIA had destroyed at least two videotapes documenting the use of abusive techniques on detainees in its custody. These videotapes have been withheld from Federal courts, the 9/11 Commission, and congressional committees. Two weeks ago in his testimony before the Senate Judiciary Committee, the Attorney General flat out refused to consider investigating possible past acts of torture or to brief congressional committees on why he believed the CIA's enhanced interrogation program is lawful.

Last week, we received official confirmation that the CIA had used waterboarding on three detainees. At the same time, the White House made the reckless claim that waterboarding is legal, and that the President can authorize its use under certain circumstances.

The White House position is directly contrary to the findings of courts, military tribunals, and legal experts that waterboarding is a violation of U.S. law and a crime against humanity.

In the words of a former master instructor for U.S. Navy SEALs:

> Waterboarding is slow motion suffocation with enough time to contemplate the inevitability of blackout and expiration. Usually the person goes into hysterics on the board. For the uninitiated it is horrifying to watch and if it goes wrong, it can lead straight to terminal hypoxia. When done right it is controlled death.

Waterboarding has a long and brutal history. It is an ancient technique of tyrants. In the 15th and 16th centuries, it was used in the Spanish Inquisition. In the 19th century, it was used against slaves in this country. In World War II, it was used against our troops by Japan. We prosecuted Japanese officers for using it and sent them to years and years of jail for following that procedure.

In the 1970s, it was used against political opponents by the Khmer Rouge in Cambodia and military dictatorships in Chile and Argentina. Today it is being used against pro-democracy activists in Burma. That is the company we keep when we fail to reject waterboarding.

In fact, Attorney General Mukasey could not even bring himself to reject the legal reasoning behind the infamous Bybee torture memo of the Office of Legal Counsel which stated that physical pain amounts to torture only if it is:

> equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death.

According to that memo, anything that fell short of that standard would not be torture. This Bybee memorandum was in effect for 2½ years before it was ever effectively suspended. It was suspended then by Attorney General Alberto Gonzales for the Judiciary Committee, quite frankly, in order that his nomination could be favorably considered.

Included in the Bybee memoranda was a provision that was an absolute defense for any of those who would be involved in this kind of torture, unless prosecutors could prove a specific intent that the purpose of the torture was to harm the individuals rather than to gain information, therefore effectively giving carte blanche to any of those who would be involved in torture.

When Attorney General Gonzales appeared before the Judiciary Committee

and effectively repealed the Bybee memoranda, he did so for the Department of Defense but not for the Central Intelligence Agency, even at that time a clear indication of what the administration was intending to do with the Central Intelligence Agency. It should not be any surprise to anyone that this has been ongoing and continuous.

According to that memo, again the Bybee memorandum, anything that fell short of this standard would not be torture. CIA interrogators called the memo their ''golden shield'' because it allowed them to use virtually any interrogation method they wanted.

When the memo—this is the Bybee memo—became public, its flaws were obvious. Dean Harold Koh of Yale Law School testified that in his professional opinion as a law professor and a law dean, the Bybee memoranda is ''perhaps the most clearly legal erroneous opinion I have ever read [because of all of the previous statutes and laws that have been passed to prohibit torture by the Congress of the United States and those initiated and supported by Republican presidents, by Ronald Reagan, as well as Democratic presidents''.]

This was not a partisan series of statements about what the United States position has historically been. The Bush administration was embarrassed into withdrawing the memo. To this day, no one in the administration has repudiated its content. The torture memo continues to haunt this country. I have asked the Attorney General several times to reject its legal reasoning, but he continues to refuse to do so. The only solution is for Congress to apply the Army Field Manual's standards to the entire Government. There has rarely if ever been a greater need to restore the rule of law to America's interrogation practices.

The field manual represents our best effort to develop the most effective interrogation standards. The manual clearly states that: Use of torture is not only illegal but also it is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear.

We have on trial in military courts six of those who are going to be tried because of 9/11. There is no question there is going to be a whole series of appeals because of the use of various techniques against them. It may very well be that some turn out—because of the violations of basic and fundamental, some constitutional rights, there will be a question about what the outcome is going to be with regard to those individuals.

Why not get it right from the start? The manual gives our interrogators great flexibility, provides all the techniques necessary to effectively question detainees, but it makes clear that illegal and inhumane methods are not permitted.

In a letter to our troops dated May 7, 2007, General Petraeus stated:

> Our experience in applying the interrogation standards laid out in the Army Field Manual . . . shows that the techniques in the Manual work effectively and humanely in eliciting the information from detainees.

Applying the field manual's standards throughout our Government will move us closer to repairing the damage to our international reputation in the wake of the Abu Ghraib scandal. It will once again commit the United States to be the world's beacon for human rights and fair treatment. It will improve the quality of intelligence gathering, and protect own personnel from facing punishment, condemnation, or mistreatment anywhere in the world. It will make us more, not less, safe.

Torture is a defining issue. It is clear that under the Bush administration we have lost our way. By applying the field manual standards to all U.S. Government interrogations, Congress will bring America back from the brink, back to our values, back to basic decency, back to the rule of law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, today's debate goes to the heart of what our country is and what we wish it to be, by asking this: Will the United States of America condone torture? Is there, at America's heart, a heart of darkness? This authorization bill for America's intelligence community offers us the opportunity to answer that question decisively. It contains provisions for which I have fought from my initial amendment in committee, and which I am proud to support today, that would prohibit members of the intelligence community from using interrogation techniques beyond those authorized in the Army Field Manual.

By adopting this amendment, the two Intelligence Committees, Congress's experts on these matters, have sent a clear signal to America and to the world that in this country the rule of law is our strongest bulwark against those who would do us harm.

I hope that today the Senate will have the confidence in our values to reaffirm that signal and pass this legislation with the Army Field Manual provision included.

Over the past several months, the American people have become all too familiar with the issue of torture. I want to discuss one technique in particular today, waterboarding, or water torture, or the water cure, which dates back to the Spanish Inquisition of the 14th century.

Waterboarding was a favorite of torturers, because its terrible effects could be generated without the visible damage accompanying the rack, the screw, the iron, the whip, or the gouge. It could be done over and over.

In the 20th century, waterboarding was done in the Philippines, where colonizers wielded it against indigenous peoples. It has been used in Sri Lanka, in Tunisia, by the Khmer Rouge in Cambodia—we are in the tradition of Pol Pot—by the French in Algeria, by the Japanese in World War II, and by military dictatorships in Latin America. The technique ordinarily involves strapping a captive in a reclining position, heels above head, putting a cloth over his face and pouring water over the cloth to create the feeling of suffocation and drowning. It leaves no marks on the body, but it causes extreme physical and psychological suffering.

A French journalist, Henri Alleg, was subjected to this method of interrogation during the struggle for Algerian independence. He wrote in his 1958 book ''The Question'':

> I tried, by contracting my throat, to take in as little water as possible and to resist suffocation by keeping air in my lungs for as long as I could. But I couldn't hold on for more than a few moments. I had the impression of drowning, and a terrible agony, that of death itself, took possession of me.

Waterboarding is associated with criminal, tyrant, and repressive regimes, with rulers who sought from their captives not information but propaganda, meant for broadcast to friends or enemies whether true or false. Regimes that employed the technique of waterboarding generally did not do so to obtain information; rather, to obtain compliance. But no matter the purpose or the reason, its use was and is indefensible.

Water torture was not unknown to Americans. A 1953 article in the New York Times quotes LTC William Harrison of the U.S. Air Force, who said he was ''tortured with the 'water treatment' by Communist North Koreans.'' In testimony before a U.S. military tribunal, CAPT Chase Jay Nielsen described being waterboarded by his Japanese captors following the 1942 Doolittle raid by U.S. aviators. From all this, America's military knew there was a chance our servicemen and servicewomen would be subjected to water torture.

The Defense Department established the SERE program—survive, evade, resist, and escape—to train select military personnel who are at high risk of capture by enemy forces or isolation within enemy territory. The program has also subjected certain service personnel to extreme interrogation techniques, including waterboarding, in an effort to prepare them for the worst—the possibility of capture and torture at the hands of a depraved or tyrannical enemy.

According to Malcolm Nance, a former master instructor and chief of training, at the U.S. Navy SERE school in San Diego:

> [O]ur training was designed to show how an evil totalitarian enemy would use torture at the slightest whim.

Those who have experienced this technique, even at the hands of their own brothers in arms, are unequivocal about its effect. Former Deputy Secretary of State Richard Armitage, who underwent waterboarding during SERE training, said this:

As a human being, fear and helplessness are pretty overwhelming. . . . this is not a discussion that Americans should even be having. It is torture.

Our colleague in this body, Senator John McCain, has said the same. Yet it was to this relic of the dungeons of the inquisition, of the Cambodian killing fields, and of the huntas of the Southern Hemisphere that the Bush administration turned for guidance. I will speak later about how our Department of Justice came to approve this. But for now, we know that last week, in a stunning public admission, the CIA Director General, Michael Hayden, admitted the United States waterboarded three detainees following the September 11 attacks. The virus of waterboarding had traveled from tyrant regimes, through the SERE program, and infected America's body politic.

Retired BG David Irvin, of the U.S. Army Reserve, a former intelligence officer and instructor in interrogation, and Joe Navarro, interrogator with the FBI, recently wrote:

[T]here is considerable evidence that the CIA had to scramble after 9/11 to develop an interrogation program and turned to individuals with no professional experience in the field. . . . Given the crisis atmosphere of the day, it is all too easy to believe the comment of an intelligence insider who said of the secret program to detain and interrogate al Qaeda suspects that ''quality control went out the window.''

Don't let us jump out the window after it.

America's military is expressly prohibited from using torture because intelligence experts in our Armed Forces know torture is an ineffective method of obtaining actionable intelligence. Again, I will speak later about the false assertion that this program was designed for 18-year-old novices. Some of the most sophisticated intelligence interrogations are done by our military after intense training. Our military adheres to the Army Field Manual on Human Intelligence Collector Operations. At a hearing before the Senate Select Committee on Intelligence, on which I serve, I asked COL Steven Kleinman, a 22-year veteran of interrogations, a senior intelligence officer in the U.S. Air Force Reserves, and a veteran interrogator with plenty of experience overseas in the Middle East, about his experience conducting interrogations using the Army Field Manual.

He said:

I am not at all limited by the Army Field Manual in terms of what I need to do to generate useful information. . . . I've never felt any necessity or operational requirement to bring physical, psychological or emotional pressure on a source to win their cooperation.

A significant number of retired military leaders have written to the chairman and vice chairman of the Intelligence Committee saying:

interrogation methods authorized by the field manual have proven effective in eliciting vital intelligence from dangerous enemy prisoners. . . . And the principles reflected in the Field Manual are values that no U.S. agency should violate.

And GEN David Petraeus, commander of U.S. forces serving in Iraq, reiterated this point when he wrote last year to every soldier serving in the Iraq theater:

Some may argue that we would be more effective if we sanctioned torture or other expedient methods to obtain information from the enemy. They would be wrong. Beyond the basic fact that such actions are illegal, history shows that they also are frequently neither useful nor necessary. . . . our experience in applying the interrogation standards laid out in the Army Field Manual on Human Intelligence Collector Operations that was published last year shows that the techniques in the manual work effectively and humanely in eliciting information from detainees.

The cochairs of the 9/11 Commission emphatically agree. On Monday, the chairmen, together with two former Secretaries of State, three former National Security Advisors, and other national security experts, wrote that ''[c]ruel, inhuman and degrading treatment of prisoners under American control makes us less safe, violates our national values, and damages America's reputation in the world.''

Torture is ineffective. It is wrong. It is dangerous to all those who serve the United States of America in harm's way. It should never, ever be used by any person who represents the United States of America or any agency that flies the American flag.

I was proud last July to introduce an amendment in the Intelligence Committee that would write this rule into law. When that effort did not succeed, I was proud again last winter to support Senator FEINSTEIN's amendment in conference.

I call on all my colleagues to support this legislation. We can journey no longer down Winston Churchill's stairway which leads to a dark gulf. As Winston Churchill said:

It is a fine broad stairway at the beginning, but after a bit, the carpet ends. A little farther on, there are only flagstones, and a little farther on still these break beneath your feet.

The United States of America—the city on a hill, the light of the world, the promise of generations—must not ever condone torture. Torture breaks that promise. Torture extinguishes that light. Torture darkens that city. I hope by our actions today, we in the Senate will help turn this country back toward our centuries-old promise. I hope we will turn toward the light.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I almost have no words to praise the Senator from Rhode Island for the eloquence and strength of his speech, which was not only grounded in very deep substance but was delivered with elegiac nature that both culled the human spirit as well as grounded the futility of torture. I congratulate him.

I also rise strongly in support of section 327 of the intelligence authorization conference report. I recognize it will be controversial. I don't care. It is important that some background on this section be provided. Some of it has been this morning. During the conference on the authorization bill, the conferees adopted an amendment that would require the intelligence community to conduct its interrogation in accordance with the terms of the U.S. Army Field Manual. The full membership of the House Intelligence Committee and the Senate Intelligence Committee served on the conference committee. So it was a majority of those two committees that came to that conclusion.

Section 327 of the intelligence authorization conference report directly parallels the provision in the Detainee Treatment Act that forbids subjecting anyone in Department of Defense custody to any treatment or technique of interrogation not authorized by and listed in the U.S. Army Field Manual on intelligence interrogation. Section 327 applies these same restrictions to the intelligence community at large.

The effect of section 327 is, therefore, to require all of the U.S. Government operate their interrogation programs under a single interrogation standard, the standard set by the U.S. military. Adopting the military standard for interrogation as the universal standard makes sense, and I hope some of my colleagues are listening. It is the members of the military who most benefit from reciprocal obligations of the Geneva Convention requiring humane treatment of prisoners and who are most likely to be subjected to retaliation based on the failure of the United States to follow those obligations. That statement is frequently made, and then it is frequently absorbed and discarded. Think about it. Retaliation is the way of the world, and it will be no different here. What we do to others, they will do to us.

The U.S. Army Field Manual on interrogation was revised in September 2006 after significant interagency review. This included a review by the Central Intelligence Agency. By providing a number of approach strategies such as the incentive approach, emotional approach, and the Mutt-and-Jeff approach, the Army Field Manual gives interrogators significant flexibility to shape the interrogation. It doesn't delineate exactly how. It gives them a lot of flexibility.

The Army Field Manual also explicitly prohibits, as we know, waterboarding, forcing detainees to be naked, inducing hypothermia or heat injury or subjecting a detainee to beatings, as well as a number of other things. All this raises the question at the heart of this debate: Should the Central Intelligence Agency, the well-known CIA, be allowed to use coercive interrogation techniques to obtain information from al-Qaida detainees?

This debate is about more than legality. It is about more than ensuring

that the intelligence community has the tools it needs to protect us. It is also about morality, the way we see ourselves, who we are, who we want to be as a nation, and what we represent to the world. What we represent to the world has a direct effect on the number of people who determine they want to join the jihadists movement and come after us.

It is a decision that can and should be left to Members of Congress who are the representatives of the American people. In the early period of the CIA program's existence, I repeatedly called—and I am extremely frustrated by this, extremely frustrated—for an Intelligence Committee investigation into the Agency's detention interrogation practices.

That was in the committee. I was, at that point, vice chairman and could not control, obviously, the vote. So on vote margins of one, we lost. We could not get anything going in the way of studying the subject and investigation of the subject. Then I moved to the floor and once again could not get the committee to investigate the subject. I also tried to have the CIA brief all the members of the committee on the interrogation program. That also did not happen.

I recognized that assessing the need for the CIA's enhanced interrogation techniques, the intelligence obtained from detainees, and the importance of maintaining America's position in the world were issues that we in Congress needed to debate and discuss, and, unfortunately, we did not.

About a year and a half ago, the full membership of the Intelligence Committee was finally provided information about CIA's interrogation program. It is the whole point of oversight. They are not accustomed to us doing that—not just the CIA, but the intelligence community—having representatives of the people asking questions. They think it is an elite field for them. They are proud of their traditions. They fight among themselves, and they do not build into their thinking what it is that the Congress might feel about this.

About a year and a half ago, as I say, we were brought into their interrogation program. Since that time, our committee has held multiple hearings on that subject. We have done our best to learn as much as possible about the basis for and the consequences of CIA's program, as well as interrogation in more general terms.

These briefings and hearings have led the committee to conclude that all agencies of the U.S. Government should be required to comply with a single standard for interrogation of detainees. The Army Field Manual provides a standard of humane treatment that indisputably complies with our international obligations under the Geneva Conventions, as well as with U.S. laws.

The CIA has briefed the committee on several occasions about its interrogation of al-Qaida detainees. The CIA has described the basis for the program, and why they think it should be allowed to continue.

Although the CIA has described the information obtained from its program, I have heard nothing—nothing—that leads me to believe that information obtained from interrogation using coercive interrogation techniques has prevented an imminent terrorist attack.

This is true for a very simple reason. Once a terrorist is captured, his fellow plotters, understandably, change their plans. In other words, I do not believe the CIA has ever been in an actual ''ticking timebomb'' scenario, nor do I think it is ever likely to be placed in that situation. That does not mean the information obtained from the program has not been valuable. Of course information about al-Qaida is exceedingly valuable from an intelligence standpoint. It is bits and pieces of information that allow our intelligence professionals to assess al-Qaida's capabilities and to determine how best to protect ourselves as a nation. But, more to the point, I have not heard nor have I seen any evidence that supports the intelligence community's claim that using enhanced interrogation techniques is the only way to obtain this type of intelligence; that is, to get what they need to get.

After 9/11, the intelligence community decided that coercive interrogation tactics were the best way to obtain intelligence. It was perhaps a little bit understandable then in terms of the general panic of the Nation. But the intelligence community—I say this gravely—did not take the time to research what interrogation techniques might be most effective to come to this conclusion, nor did they reach out to the interrogators with experience, particularly those questioning Islamic terrorists. They did not do that. They were going to do it their way. They simply assumed—and they simply still assume—that coercive interrogation techniques were the best way to obtain information.

To this Senator, this was clearly a flawed approach. But at this point, the administration is so invested in the use of these techniques they can no longer psychologically or otherwise step back to assess what methods are most effective to obtain intelligence. They go by the mantra, they go by what has been done before.

To address this question, the committee explored how other Government agencies conduct interrogation. The committee considered critical interrogations of individuals who do not want to disclose information—people who are hardheaded and do not want to talk—interrogations where obtaining information can prevent widespread injury or death.

Every day, military interrogators in Iraq and Afghanistan question individuals with information that can save lives—every single day—questions about where explosive devices are hidden, where captured soldiers have been taken, or where caches of weapons are stored, and a lot more.

Now, the CIA loves to argue: Oh, but they are just 18- to 20-year-old kids. They don't have the experience. We have experience. We have experience. We have been at it. We are the professionals. They did that at our public, open threats hearing a week or so ago.

Now, there is something called the FBI. They deal with pretty bad people, too. Their agents face life-and-death situations in both the world of terrorism and every-day criminality. Some of the individuals the FBI interrogate are senior leaders, individuals who are committed to staying silent and not sharing the information they possess. In fact, FBI agents recently questioned the top al-Qaida leaders who were formerly in CIA custody, gathering enough information from those al-Qaida leaders to build cases for trial, which we have recently read about.

Some of these FBI agents have been conducting interrogations for two or three decades. That does not sound like 18- to 20-year-olds. They are, without question, recognized experts in their field, and they are remarkably effective at obtaining the information they need. Yet both the FBI and the military have told us they do not need enhanced interrogation techniques. Are these naive organizations? Are these people who do not know what they are talking about? Are these people who do not have stakes at hand? They are out on the battlefield. They are not only at Guantanamo. They are out on the battlefield. They have told the committee the interrogation techniques included in the Army Field Manual provide them with flexibility they need to obtain the information they need.

Indeed, representatives from both the military and the FBI—both—stated emphatically they have the tools they need to obtain necessary and reliable intelligence.

After considering the CIA's arguments, and those of the FBI and the U.S. military, I am simply not convinced that harsh CIA tactics are necessary to obtain intelligence information.

We also had people who were neutral who had experience in interrogation but were not currently in the practice of it. Their information to us also was that to terrorize, to torture, to manhandle, to do whatever, does not work. Human beings are human beings, and there are ways to get at them. In fact, coercive interrogation techniques can lead prisoners—and probably will in many cases—to say anything at all for the purpose of stopping the interrogation. As a result, coercive techniques can produce information that is fabricated and ultimately lead to flawed and misleading intelligence reports. This is not academic or hypothetical. Bad intelligence is a real danger.

In the early years and months after 2001, we were awash with bad intelligence in Washington, DC, not all of it coming out of coercive techniques, but out of a complete misunderstanding of what intelligence is all about. In fact, there was a condescension from the administration about the role of intelligence in providing reliable information. So this is not an academic or hypothetical point. Bad intelligence is a real danger when employing coercive interrogation techniques.

Intelligence reporting from an al-Qaida detainee—a very famous one named al-Libi he said Iraq was providing al-Qaida training in chemical and biological weapons prior to the war, which was publicly trumpeted by the President of the United States, by the Secretary of Defense, by the Secretary of State, and other senior administration officials as proof of operating links between Iraq and al-Qaida and, therefore, as a basis for going in to invade Iraq.

Of course, basically all of us feel now that what the President said on March 23 in the other body, in his speech which gave him the authority to go to war, was based on intelligence which was almost entirely incorrect, and virtually everything he said, other than some rhetoric here and there—everything he said turned out to be wrong, and, therefore, was one of the most extraordinary disservices to the American people, not to speak of the dead and the wounded, that I can remember in my lifetime. But the Nation was inspired by the thought of fighting terror, and so on they went.

Ultimately, al-Libi, who said these things, recanted. He recanted, and it was determined by the CIA that he had fabricated this central allegation of this link between al-Qaida and Iraq and other information based on his claim of mistreatment during the interrogations.

So this is not an academic point. America went to war based on an alleged threat that was partially based on fabricated information produced under coercive interrogation.

Apart from the question of efficacy and the risk of bad intelligence, the committee has explored the consequences of having a different, secret standard of interrogation for the intelligence community. This is where the need for section 327 becomes clear.

Since the disclosure of information about the existence of secret prisons, and the use of harsh interrogation techniques, the reputation and moral authority of the United States have suffered dramatically. It is not a casual statement. One can say, yes, a lot of people have said that. But when that is true, that means that in Africa and Southeast Asia and South America and in the Middle East it becomes much easier for al-Qaida and those who would do us ill—and people within the United States who may belong to no formal organization like that at all—to develop anger, to develop a search for meaning to their lives because they do not see hope in their lives, and so they join. They join a group that will do damage. Some of our techniques have significantly increased the likelihood of that happening.

Rather than being a world leader in human rights, we have become known for the unapologetic use of aggressive interrogation techniques. Indeed, even Canada has included us on a list of countries that engage in torture.

Allowing the CIA to continue to use coercive interrogation techniques that are not part of the Army Field Manual is another piece of fodder for terrorist propaganda that cannot be underestimated. It is not just a rhetorical statement. It cannot be underestimated. It is no way to win the hearts and minds of the Muslim world. Ultimately, the war on terrorism is a war of ideas. Without a public standard of humane treatment, it is impossible to convince the world that we take our international obligations seriously, that we treat people humanely, and that we are a country of laws and we adhere to these laws.

We must uphold those standards that differentiate us from the terrorists whom we are fighting. If our Government continues to use secret interrogation techniques that many are convinced constitute torture, America's standing in the world will continue to go down even more. Every time it goes down, there are more people who sign up to do us harm.

The Israeli Supreme Court concluded, when it forbade the use of harsh interrogation techniques, the following:

> This is the destiny of democracy, as not all means are acceptable to it and not all practices employed by its enemies are open before it. Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the rule of law, and recognition of an individual's liberty, constitutes an important component in its understanding of security. At the end of the day, they strengthen its spirit and its strength and allow it to overcome its difficulties.

So in closing, passing section 327 is critical to regaining our moral authority in the world—which is a little bit too easy to say; it is going to take a lot more than that but it is a start—and convincing people that the United States believes in due process and human rights rather than fear. Having a separate standard of interrogations for the CIA—as much as it may want to have it, as much as it may have pride in having their secret standard, as much as they talk about 18- to 20-year-olds—is simply not worth the cost. I, therefore, urge my colleagues to support section 327.

But no matter how the Senate votes on this motion, if it comes up, the CIA should very carefully consider the actions of the House and Senate Intelligence Committee. All Members need to consider what this large group concluded. The members of our committees are the only Members of Congress who have been briefed on the program and who are privy to the administration's best arguments in support of the program. That has to be said from time to time, and it sounds a bit arrogant, but there are people on the Intelligence Committees, both in the House and the Senate, who get briefings, and they know things that are not necessarily known to the rest of the Congress. Yet despite those briefings, a bipartisan majority of both the House and the Senate Intelligence Committees have determined that it is in the Nation's best interest to have only one standard of interrogation, a standard that can be publicly judged by the entire world, and this judgment by the representatives of the American people—that is, what we did in the conference committee—cannot be ignored.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I compliment my distinguished friend from West Virginia. He has been a very bipartisan worker on the Senate Select Committee on Intelligence. I have been on that committee for an awfully long time, and I have a lot of respect for him. I just want to make that point for the record. I know he spends a lot of time trying to do his job well. We don't always agree, but we do agree on an awful lot. I particularly appreciate his work on the FISA bill. I know it is a very difficult position for him to be in. It is a very technical, very difficult bill, a complex bill, with a lot of matters conducted in public. I think he did a terrific job in seeing this bill through to the Senate floor.

I also would like to take a moment to thank my colleague and friend who works with me, Jesse Baker. He is a Secret Service detailee on my staff who has been invaluable in helping me prepare for the important FISA debate.

I also thank the very able counsel of the Intelligence Committee, Kathleen Rice, along with Jack Livingston, Mike Davidson, and Chris Healey, all of whom I think played a significant role in the FISA bill, among so many other things as well. I also would like to pay tribute to my colleague on the Intelligence Committee, my staffer who works with me, Paul Matulic, who is one of the most articulate and knowledgeable foreign policy people in government today. I am very grateful for his work and the effort he has put forth to try to assist me in these very difficult times and very difficult jobs.

This might be a historic week for the Senate Select Committee on Intelligence, at least in comparison with the last 3 years. Last night, we passed, after over a year of work and preparation, including the 6-month interim Protect America Act, the FISA modernization bill. I truly hope our House colleagues can expedite this bill and get it to the President for his signature before the legal regime governing our essential technical capabilities expires this weekend.

I wish to congratulate both the chairman, as I have said here earlier,

and vice chairman, Senator BOND, for their sustained efforts on this issue. It wouldn't have been passed without their sterling leadership and their willingness to make some tough calls and to stick to them.

I have often said I am metagrobolized—confounded, you might say—that we have heard about the asymmetrical advantages that our terrorist enemies have, while we are reluctant to use our own significant asymmetrical advantages to defend ourselves from these terrorists' intentions. The terrorists do have asymmetrical advantages, to be sure: They are substate actors, and they do not operate according to any national or international law, including the law of war. They hide among civilians, target civilians, and terrorize civilization. If al-Qaida could get its hands on a weapon of mass destruction, everything we know about them suggests they would use it against the West.

But we in the West also have asymmetrical advantages as well. Two significant advantages are our technological prowess and our adherence to the rule of law. Our technology, as we have revealed in more ways than I think prudent in our open debate, provides us unparalleled advantages in tracking the enemy. Our collection has prevented terrorist attacks against us, and our continued collection makes the enemy dedicate a significant amount of its time to avoiding us—time that it would use plotting against us. In this sense, our technological collection is not just a defensive tool but an offensive tool as well. Americans and their leaders are right to expect that all of this Nation's activities should adhere to the rule of law, and this long debate over FISA modernization should, at the very least, assure everyone that we adhere to a legal regime, even when it seems aggravatingly slow to adjust it to modern technology and threats unimagined in the 1970s when the original FISA Act was enacted.

So I again wish to congratulate the chairman and the vice chairman for their leadership in getting this important piece of legislation passed, finally, last night. It was a major banner day for us. This bill was long overdue, and I give credit to those who have worked so hard—long and hard—to see that it was done.

The passage of an intelligence authorization bill is also an important measure of how we advance the rule of law. The balance of powers so beautifully articulated in our system of government requires an active role for this body and, since the 1970s, we have institutionalized a role of oversight for intelligence in the two committees of the Senate and the House.

Our principal vehicle is the authorization bill. This process has been derailed for several years now, as Members operating with individualized agendas have created a dynamic that has thwarted the institutional need for authorization. It is a fact that, if some concede that an authorization bill is not essential, the self-moderating dynamic that keeps one from offering controversial amendments on a bill is removed. We have seen this with the foreign relations authorization bills. I don't want to see it happen with the intelligence authorization bill.

This year's bill has some very important measures in it, most of them in the classified annex and therefore not subject to discussion now. It is, after all, an authorization for the intelligence community—or IC—which does, after all, require a minimum of secrecy to function effectively. The bill does have measures in the unclassified annex worthy of passage, however, to include additional and needed authorities for the Director of National Intelligence, directions on personnel level assessments for the IC, directions on business enterprise architecture modernization, and limits on excessive cost growths of certain systems.

The bill, however, has been strapped by a provision added during conference that was not a part of either the House or Senate bills going into conference that would in this case limit all IC interrogation techniques to the Army Field Manual. Now, this provision is widely seen as a prophylactic against the use of torture, and there begins the misconceptions.

The United States does not torture. Whether the process known as waterboarding constituted torture when it was used in three cases in the past—and we cannot discuss exactly how it was used here—is a debate to be held among historians and scholars of the law. I do not wish to inhibit that debate. I also do not wish to violate U.S. domestic law or international law to which we are committed as a nation. The rule of law serves our advantage.

But the conflict over what was lawful in interpretation in the first 2 years after the 9/11 attacks recognizes, to the honest analyst, that there is murkiness at the intersection of law, policy, and legal interpretation. That has always been the case. As I say, I do not want to inhibit this debate.

I also do not wish that historic debate to inhibit any techniques we need to use for interrogation today. Last week, in an open session of the Senate Select Committee on Intelligence, Director Mike Hayden—General Hayden—spoke forcefully, openly, and articulately about the issue of waterboarding. He said in public that, No. 1, less than one-third of less than 100 detainees held by the CIA since 9/11 have ever been subjected to enhanced interrogation techniques. No. 2, of that small sample, only three have been subjected to waterboarding. No. 3, waterboarding has not been used for almost 5 years. Yet we have heard nothing but screaming about this issue, as though it was relevant today.

As Director Hayden went on to state, there is a universe of lawful interrogation techniques. This includes FBI procedures, the Army Field Manual, and the enhanced interrogation techniques used by the CIA, but which, I repeat, does not include waterboarding today. The DCI made it plain—the Director of Central Intelligence made it plain that the CIA will play to ''the edges that the American political process allows us. It is our duty to play to that edge.'' The DCI also made it clear that if the Congress directs that line is set by the Army Field Manual, then that will be the line in law that CIA officers will respect and adhere to.

So Congress must act soberly and responsibly in addressing the question of enhanced interrogation techniques. As the hearing last week made clear to anyone listening, the various approaches—FBI techniques, DOD's Army Field Manual, and CIA's enhanced techniques—address various subjects under different circumstances with different sets of goals. Director Maples told me he could not imagine that anyone would have objected to the use of current enhanced techniques if they could have gained the intelligence that would have prevented the attack on the USS Cole.

In my mind, the greatest advantage of the enhanced interrogation techniques is the public ambiguity surrounding the fact that they are classified. I don't want an al-Qaida operative we have just wrapped up to know what is in our playbook. But I want to make clear, ambiguity is not—I repeat, not—a cloak for torture.

I can't go into details here, but I can say I have been constantly amazed as I have studied this issue in the Intelligence Committee over some of the sanctimony that has been used by some people on the Senate floor addressing this issue, and off the Senate floor as well. I can quite comfortably say there are actions the American public has routinely witnessed on some of our most popular television police shows over the past two decades that would exceed anything in the enhanced interrogation techniques allowed by the CIA. I find this to be ironic.

I cannot support this conference report if it has the language limiting interrogation to the Army Field Manual. This is a manual written for our soldiers, all of whom I think we all agree are brave, dedicated warriors, but most of whom are young and inexperienced in the needs of interrogation. They should have their manual. I must point out, however, that Army Field Manuals are subject to revision by the Executive at any time, so that we in Congress are acting a little too self-satisfied by this simple gesture if we actually believe we are rectifying the rule of law.

I say, let's have this debate and let's really define what it is we wish to proscribe, and let's understand the needs of our intelligence and the consequences for our actions—consequences that could be very grave if we keep playing games with these issues—or should I say political games. Both would be wrong, in my opinion.

Much of this debate must be classified, but the Senate has procedures for closed sessions, and, after all, the Senate Select Committee on Intelligence was created for just this need. I serve on that august committee, and I have served on it for a long time.

Sometimes I feel as if I am on the corner of sanctimony and righteousness. Sanctimony has popular appeal—it gains the approving tut-tutting of the chattering masses. Often it is more bombast than substance, more Babbittry than bravery. Righteousness is not always a function of the approval of the masses. Those who go to war to defend do things that are lawful but sometimes unpleasant—sometimes very unpleasant. In the choice between sanctimony and righteousness, I will choose the latter.

I do not wish to calumniate anyone in this debate. I presume that people are motivated by the purest of motives, as is always the case in the Senate—or should I say I hope it is always the case in the Senate. I wish, however, that we had more substantive debate on some of these difficult questions.

So because this conference report includes a measure limiting interrogation techniques for our intelligence professionals in the Army Field Manual—a measure added at the last minute in conference, something that was in neither bill, the House's or the Senate's—I will vote against the conference report and urge us all to reengage in this debate so that the lines of law we draw, that our intelligence professionals will respect, are lines that also maintain our best defenses within the rule of law.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MENENDEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes as in morning business and to yield some of that time to the distinguished Senator from Pennsylvania who joins me on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF DAVID DUGAS

Mr. VITTER. Mr. President, I come to the floor with welcome support of the distinguished Senator from Pennsylvania, who serves so ably on the Judiciary Committee, to talk about the pending nomination of David Dugas to fill a vacancy in the Middle District of Louisiana.

This is a vacancy that has existed for over a year, and, in fact, coming up very soon in March will unfortunately, if we do not act before then, will be noting the 1-year anniversary of the nomination of David Dugas to fill this vacancy in the Middle District of Louisiana, of course nominated by President Bush.

Mr. Dugas is currently U.S. attorney in that same district. In that capacity, of course, he had to come before this Senate and be confirmed; and he was by unanimous consent. So that was a very resounding confirmation of him, which included support by my colleague from Louisiana, Senator LANDRIEU.

In terms of this judicial nomination, Mr. Dugas has received the highest rating possible by the American Bar Association. He is eminently qualified. There is nothing in his background or his dealings or his job as a U.S. attorney that remotely suggests otherwise.

Yet there has been great delay and obstructionism, in my opinion, in terms of considering this worthy nomination. In fact, even though we are coming up on the 1-year mark of President Bush's nomination of him, he has yet to receive a hearing before the Judiciary Committee because my colleague, Senator LANDRIEU, has not turned in her so-called blue slip.

I rise to make note of this, and in a few minutes I will have a unanimous consent to propose to the Senate to remedy this situation. I have also specifically invited Senator LEAHY, Chairman of the Judiciary Committee, and Senator LANDRIEU, my colleague from Louisiana, to join us on the floor for an appropriate colloquy.

With that introduction, I yield such time as he would consume to my distinguished colleague from Pennsylvania, the ranking member of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I join the Senator from Louisiana in his request to have a hearing and then proceed with an up-or-down vote. I have reviewed the record of the nominee. It appears to me that the nominee is qualified for the position.

In his service as a U.S. attorney, he has already had Senate confirmation. But the basic proposition of having a hearing and a vote, I think, is very fundamental to so many pending nominees beyond the nominee addressed by the Senator from Louisiana today.

I have discussed this issue on a number of occasions with the senior Senator from Louisiana, and she has been of the view that she ought not to return the blue slip, and I respect her decision. But I also respect the position of Senator VITTER in trying to move forward.

It would be my hope that we could come to some accommodation, that we could find some way to set a timetable for a hearing, at least on that.

Senator VITTER has advised me that he has written to both the distinguished chairman and the senior Senator from Louisiana and that there is to be a unanimous consent request. I know Senator VITTER will await the arrival of someone who can object because my expectation is a unanimous consent request will be objected to. But the issue involved is to raise the issue and to make the point as to what has happened and to try to see if there can be some accommodation, as noted by the floor discussion today.

I see Senator VITTER nodding in the affirmative. In my capacity as ranking member on the Judiciary Committee, I would like to get these nominations to move forward.

I yield the floor.

Mr. VITTER. I thank the distinguished Senator from Pennsylvania, first for his service on the Judiciary Committee; it has been very distinguished, to serve there as many years very ably, now-ranking member, and specifically for his support on this nomination and others to try to break through the gridlock, break through the partisanship, move forward in a positive way for the country.

I believe that is absolutely necessary in a number of cases, but the one that surely hits closest to home for me is this nomination of David Dugas to a judgeship in the Middle District of Louisiana. So I thank the ranking member for all his help and support; I know it will continue.

Again, let me note I wrote to Chairman LEAHY that I would be taking the floor this week to make the upcoming unanimous consent request. I did the same to my colleague from Louisiana, Senator LANDRIEU. As soon as we figured out the time that would be available, we sent them word, and I sincerely hope they can both join me on the floor because I think it would be very useful and very informative to have an appropriate discussion and colloquy about this case. So I certainly invite that. I would encourage them to accept the invitation to join me on the floor.

Let me point out and reiterate some very important points about this nomination. President Bush made the nomination some time ago. That was March of last year. We are coming up quickly on the 1-year mark of this nomination. The vacancy in the Middle District has been open even a little bit longer, over a year.

Because of that, a backlog of cases is quickly mounting in the Middle District. The Middle District is an area surrounding Baton Rouge, LA, the capital of the State. It has felt a huge influx of people, of residents, and of litigation, largely because of Hurricane Katrina.

Because of that, because of this vacancy, judicial backlogs have been mounting and mounting. We are not quite to the point—and this is defined in law and by rules of the court—we are not quite to the point that it is defined as a ''judicial emergency,'' but we are quickly coming up to that line.

So the people of Louisiana, the people of the Middle District are not being served well and properly and as quickly as they should be. This vacancy needs to be filled for that reason.

Now, let us look at the man who President Bush has chosen to fill the

vacancy. By all accounts, he is eminently qualified. Mr. Dugas is the sitting U.S. attorney in the Middle District. He has done a very fine job in that position, has won praise from many different quarters, particularly from law enforcement.

He has many admirers and allies in the law enforcement community: Sheriffs across the State, chiefs of police, district attorneys, many others. They have written in to many of us about this nomination in strong support.

Mr. Dugas was already considered by the Senate, of course he had to be, for his present job of U.S. attorney. He was considered very favorably. In fact, it was considered completely noncontroversial, and he was confirmed swiftly by unanimous consent. In that process, of course, my colleague, Senator LANDRIEU, was here at the time and was part of that very positive sweeping confirmation.

As I said, for this judicial vacancy, Mr. Dugas has received the highest rating possible by the American Bar Association. That is a distinguished professional organization, it is not political, it is certainly not leaning to the right. Nobody would think that. They have rated this nominee of President Bush with their highest rating possible for a judicial nomination.

Yet this languishes and languishes. In another month's time, we are going to be on the 1-year mark of the nomination, with this backlog of cases mounting, as we near a judicial emergency in the district.

I do not think that is right. I do not think that is serving the people of Louisiana at all. I do not think that is serving the people of the country at all.

Mr. Dugas deserves better. More importantly, the people of Louisiana deserve better. The people of Louisiana and of the country want us to act as grownups and to come together and do our work in a timely, respectful way. They don't think this sort of partisanship and obstructionism, particularly over judgeships, falls into that definition.

This got particularly bad a few years ago. I was hopeful. Since I have been here, not because of my influence but just in general, since I got here, the Senate has become more responsive and more responsible about nominations, particularly judicial nominations. Unfortunately, this is a clear example in the other direction. Let's clear up this example. Let's move it off the list of those examples of partisanship and obstruction. Let's act in a reasonable—late, by now, but reasonable way, finally moving forward with this highly qualified nominee before this district gets to a state of judicial emergency, which is looming.

That is my simple and reasonable request. With all that background, I will now propound a unanimous consent request.

I ask unanimous consent that if the Committee on the Judiciary has not held a hearing on PN 349, the nomination of David Dugas of Louisiana to be U.S. district judge for the Middle District of Louisiana, and reported the nomination to the Senate by March 19, 2008, which would be the 1-year anniversary of his nomination being transmitted, that on the next calendar day the Senate is in session, the Committee on the Judiciary be discharged from further consideration of the nomination; that the Senate proceed to executive session to consider the nomination; that there be 1 hour of debate equally divided between the chairman and the ranking member of the Committee on the Judiciary or their designees; that upon the use or yielding back of such time, the Senate immediately proceed to a rollcall vote on the nomination; that if the nomination is confirmed, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's actions; and that the Senate then resume legislative session.

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of New Jersey and on behalf of the majority leader, objects.

Mr. VITTER. Of course, I am disappointed—not surprised but disappointed—at the objection.

I resume my plea specifically to Senator LEAHY, chairman of the committee, and to Senator LANDRIEU, who has not turned in her blue slip and is thus the reason for the committee not even holding a hearing, that we move beyond this, that we have a hearing on this eminently qualified nominee. If there is a reason to stop the nomination, surely a hearing is the best venue and the best vehicle to illustrate that and talk about it. I hope we move beyond the pure obstructionism and partisanship that has us stuck in the mud with a judicial emergency in the Middle District looming.

This is exactly the sort of obstruction the American people are tired of. They spoke clearly to this over the last several years about judicial nominees. Maybe we got a little better, but here we are again in terms of this matter and this case which is surely important to Louisiana. I urge all of my colleagues to work beyond this. Specifically, I urge the chairman of the Judiciary and Senator LANDRIEU to work beyond this. It is unfortunate that they couldn't accept my invitation to have a useful, informative dialog and colloquy on the issue on the floor. There has been no good explanation for inaction that I have ever heard. A lot of people would like to hear some discussion and explanation. I hope we will hear that soon. I hope in the very near future we will move toward an appropriate resolution of this matter, which is a hearing and a vote in Judiciary and then on the floor of the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, we are considering the intelligence authorization bill. My understanding is later this afternoon we will have, perhaps, a final vote on the bill. There are many important provisions in the bill. Many of us who have been here for some while—from the destruction of the World Trade Center and the murder of thousands of innocent Americans on 9/11, where terrorists used airplanes loaded with fuel as guided missiles to bring down the World Trade Center and attacked the Pentagon and through the subsequent period leading up to the Iraq war—know we have had all kinds of difficulties with the intelligence community.

We have a lot of men and women risking their lives all around the world every day collecting intelligence, and yet most of us have been through top secret briefings that we later find out to have been absolutely false, wrong, just standing facts on their head.

So it is critically important for this country to have a good system of intelligence gathering and good analysis of intelligence if we are going to prevent the next terrorist attack against our country.

It is a difficult world out there. We have terrorists who would like nothing more than to kill Americans and attack our country. So passing an intelligence authorization bill that provides the resources, provides a structure for a good system of intelligence is very important to the safety and the security of this great country. That is what the debate is about. That is what the upcoming vote is about.

But there is one provision that has caused a special concern for some in this Intelligence reauthorization bill, and I want to talk about it a bit. That is the provision that deals with the subject of torture.

One of the most important provisions in this legislation is one that makes the Army Field Manual provisions on interrogations applicable to all U.S. Government personnel. Right now, those provisions which forbid torture apply only to the military. Those provisions do not apply to some others that are conducting interrogations on behalf of our Government. That means that some others who work for the U.S. Government—the CIA, for example; contractors, for example—may use interrogation techniques which may constitute torture and which are forbidden in the Army Field Manual. This legislation incorporates the Army Field Manual provisions on interrogations and says it applies to all personnel from the United States.

Now, why is that important? Because it makes a vote for this bill a vote

against torture. It is a vote that says American values and torture are not in any way compatible. Voting for this bill is a vote for a country that has been looked up to throughout the world because of our system of values. It is that simple, and it is that important.

Let me say that I acknowledge today there are tyrants and despots and dictators and a lot of evil people in this world and throughout history who have used and have always justified the use of torture—but not this country. We have not done that, with the exception of some recent disclosures I will talk about.

Some people argue that this issue of torture is especially about waterboarding. Waterboarding is a more antiseptic term. It should be described as water torture. Some people say that: Well, we have waterboarded. In fact, it has been disclosed by administration officials that we have waterboarded—which is water tortured—three of the most dangerous, despicable terrorists who attacked this United States, and we only did it at a time when we thought they would provide information or had information that would allow us to avoid other catastrophic attacks, and we need to be able to do that again in the future, if necessary, if some despicable terrorist is planning an attack on this country.

Let me talk a little bit about what we are describing here. waterboarding is a practice that has been around for centuries, and it has been known—widely known—as torture for a long time. In fact, waterboarding has been prosecuted as torture and as a war crime on many occasions in history. Trying now to claim it is legal, that it is not torture, or that it is something other than torture doesn't square with the facts. Second, history teaches us that torture is not effective. Aside from the question of morality, it is not effective. Those who know tell us that those being tortured will often tell you anything they think you want to hear in order to have the torture stopped.

The provisions in the Army Field Manual set forth the many approved methods to get reliable information, but those methods do not include what is defined as torture.

The question about torture is: If you decide that torture is appropriate and available as a tool for our country to use, why stop at waterboarding? There are many other forms of torture that are even more heinous, more abusive: putting people in boiling water, pulling out their fingernails, amputations, electric shock. Justifying torture is a very slippery slope that doesn't have a pleasant end for a country that cares about its system of values. We don't do that and haven't done that. We haven't been engaged in torture as a country for a couple of centuries because we don't belong to that group of people in the world who want to do damage and want to commit mayhem and want to kill others. We hold ourselves to a higher standard in this country—always have—a higher standard, a standard that all of us can be proud of.

It is interesting when you think back to the Cold War. We won the Cold War, but we didn't win it with bombs and bullets; we won it with American values and American standards, and American rights. The other evening I saw a very large portion of the Berlin Wall that had been transported to the United States of America. It was a wall that kept the free world out and it was a wall that kept those in East Germany behind it, living in oppression, living in a circumstance where they were denied freedom. I was thinking again about the Cold War and the fact that we didn't win the war with bombs.

I have in my desk something I have had there for a long period of time, if I might show it by unanimous consent. This is a piece of a wing from a Soviet Backfire bomber. This bomber very likely carried a nuclear weapon that would have been used against the United States. Actually, we sawed part of the wing off this Soviet bomber because when the Cold War was over, we reached an agreement to destroy delivery systems. I have also in my desk a hinge. This hinge used to be on a missile silo that held a missile with a nuclear warhead on its tip aimed at a U.S. city. It was in Ukraine. Where that missile used to sit, there are now sunflowers growing. It is now a sunflower field. The missile is gone, the warhead is gone. This bomber is now in pieces.

We won the Cold War. And we have agreements with Russia, Ukraine and other former Soviet republics under which we help destroy their Cold War weapons and delivery systems. But we didn't win the Cold War with bombs; we didn't blow up that Backfire bomber. We didn't blow up the Soviet missile silo with one of our missiles. We won the Cold War because of our values. American values won the Cold War.

What are those values? Well, people are free. They believed what they said. They believed what they wanted. The Government had to respect the rights of everyone in this country. We were a country that had a government based on a Constitution that had a Bill of Rights that applies to all Americans. Our country stood for liberty, human rights, human dignity, the rule of law. That is what won the Cold War. Those values were so strong that in the middle of the Cold War with the Soviet Union, those values shone a light of hope into the darkest cells and the deepest part of the Soviet Union. In the gulag prisons, in the outermost reaches of Siberia, those values reached those cells. Millions of prisoners had been held, often in solitary confinement, simply for thinking and speaking freely. Many were there for years; some swept off the streets, never to reappear again; many tortured into false confessions, and many murdered. Some survived, however, and talked about their experience, and about how important the idea of America was to them, how important the idea of freedom was to those who had been detained and had not been able to experience freedom, and to those who had been tortured by a country that didn't want them to be free. It was a clear and vast difference between America and the Soviet Union. As imperfect as we are, the basic foundation and bedrock of values in this country is what shined so brightly in the middle of the Cold War. It wasn't the amount of bombs and bullets each country had; it was what we stood for.

When the Berlin Wall fell in 1989, the Iron Curtain was lifted, all of those police states crumbled, and every single one of them became free countries that provided freedom to their citizens. Every single one chose freedom and democracy. That is how powerful the idea and the values of this country have been.

What I say today is we have to regain the moral high ground and describe our values in circumstances that make it clear that we do not subscribe to some things others might. We do not support torture. We will not support torture. It is not what our country is about. From the very beginning in this country, America has held itself to a higher standard. George Washington, leading the Continental Army—think about it: 5,000 soldiers in the Continental Army going up against a British Army of 50,000 soldiers, and our 5,000 were shopkeepers and farmers; 5,000 against 50,000, and we prevailed over time. George Washington, after a large number of his troops were captured and slaughtered—he saw the Hessian mercenaries kill unarmed prisoners. After that, George Washington and his troops captured a large number of British soldiers, and many of the troops justifiably wanted revenge. They sought to execute them just as they had seen done to unarmed American prisoners. George Washington refused. He refused to treat the prisoners as his soldiers had been treated. He insisted America was different. He said: We are different, and we are going to treat people the way they should be treated, not the way they treated us, and that has been our birthright.

That is why this discussion right now is so very important. It goes to the core of what we are and who we are as a nation. Quite simply, we have to say unequivocally: We are against torture. We, the Congress of the United States, must say that torture is un-American, simply because it is. No hair splitting, no fancy words, no legal distinction about what might or might not be torture. That will begin to restore, I think, our rightful place if we say we are against torture.

Let me briefly continue to say that being against torture is being for an America that is better than its enemies. It is that simple. I said we fought and won the Cold War after many decades. We faced nuclear annihilation during that period. We faced a

ruthless enemy all around the world, and yet we won that war. We did that with our reputation, our values, and our moral authority intact. It was and still is, I think, a beacon of hope around the world.

Those values and that moral authority, I believe, are what is going to allow us to prevail in the battle against the terrorists who wish to do harm—not just here but in other parts of the world as well. We need—and I believe the world needs—an America that people respect and admire, an America that is different, that begins in a manner that is loud and clear saying: We do not torture. This will empower our country and make us stronger.

I was very disappointed last week to hear the head of our intelligence service, and then to hear a spokesperson for the White House, say: Yes, we have waterboarded. They used the term—the right term—water torture; yes, we have done that. We did it because we must, and we reserve the right to do it again. It is exactly the wrong thing for this country. It is not just me saying that. I am not just quoting George Washington who has established the higher standard, and God bless him for doing so. Let me read what General Petraeus said, who leads the American troops in Iraq right now. Our most senior commander in Iraq, GEN David Petraeus, sent a letter to every Soldier, every Sailor, every Airman, Marine, and Coast Guardsman serving in Iraq. He said this:

Our values and the laws governing warfare teach us to respect human dignity, maintain our integrity, and do what is right. Adherence to our values distinguishes us from our enemy.

This fight depends on securing the population, which must understand that we—not our enemies—occupy the high ground.

Continuing to quote:

Some may argue that we would be more effective if we sanctioned torture or other expedient methods to obtain information from the enemy. They would be wrong. Beyond the basic fact that such actions are illegal, history shows us that they also are frequently neither useful nor necessary.

That is General Petraeus, who leads our troops in Iraq, and says those who believe that torture is appropriate would be wrong.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to.

Mr. DURBIN. I thank the Senator for his comments, and I thank Senator FEINSTEIN for the support language. Some argue that this language was not necessary, that the McCain amendment, which passed 90 to 9, made it clear that whether you are in uniform or not torture is not the policy of the United States. Others argue that the Geneva Conventions had already made that clear for decades before it was brought into question by this administration.

I ask the Senator from North Dakota if he struggles with the same thought that I do. At some point after World War II, we prosecuted Japanese soldiers who tortured American prisoners of war using waterboarding and charged them with war crimes; and we are now at a point in our history, some 60 years later, where General Hayden testifies under oath before Congress that our Nation engaged in the same conduct, at least three times previously, when it came to waterboarding. I wonder if the Senator from North Dakota struggles with the same concept of justice as was applied after World War II and as it appears to be applied by this administration?

Mr. DORGAN. Mr. President, that is a significant contradiction for our country. I was as surprised and disappointed as the Senator from Illinois was to have one of the leading officials in this administration testify under oath that, yes, in fact, waterboarding had been used. It was in fact legal, they said, and it would be used again, if necessary, and could be sanctioned by the President of the United States.

The Senator is correct that this Congress passed a piece of legislation that defined waterboarding as torture and prohibits it, and the President at the White House, in a signing statement accompanying the legislation, essentially said: It doesn't matter so much what the legislation says; what matters is what I will decide to do.

Now, we have a disclosure—a public disclosure—to the world that this country has employed a technique that has, for hundreds of years, been described as torture.

I know and understand the passions that exist. I understand what I would like to see done to Osama bin Laden when he is captured. I understand the passions. But I also understand that what has given this country a different standing in the world is our value system.

Again, let me, if I might, for the Senator from Illinois, refer back to George Washington, which I described earlier before the Senator came on the Senate floor. When I think of the odds facing the Revolutionary Army, it is pretty unbelievable. The Senator from Illinois and I were at Mount Vernon recently, and we saw a display describing that at one point there were 5,000 soldiers in the Continental Army and 50,000 British soldiers. That was the fight. Our soldiers were shopkeepers and farmers, ordinary folks off the street. Theirs were trained British soldiers. So it was 5,000 to 50,000. George Washington and his soldiers saw members of the Continental Army captured and then, unarmed, murdered, executed by the British soldiers and the Hessians.

Washington's soldiers, when capturing some British soldiers, wanted to do the same thing. But he said, nothing doing, we are not going to do that. George Washington said that we are different and we are going to treat people the way they should be treated, not the way they treated us.

When you think of that set of standards and values and then wind your way through the discussion in recent days, and to have a top U.S. official say, yes, we have used waterboarding—and it is widely acknowledged as torture—we used it and it was legal and we intend to use it again if it is necessary.

Mr. DURBIN. I am sure the Senator is aware that this questionable chapter in American history—which I think will haunt us for generations to come—also involves people other than the general who testified. There is an individual who has been nominated by the President to be head of the Office of Legal Counsel, Steven Bradbury. He has been rejected four times by the Senate. The President said last week that he was the most important appointment. A month or two before, he told the majority leader he didn't want to talk about any other appointments until Mr. Bradbury was approved. Bradbury's tenure in the Office of Legal Counsel goes back to the period of time when this administration was rewriting torture policy in America—a policy which they at one point accepted and later rejected. Many of us have said if Mr. Bradbury is coming before us for consideration, we want to see those memos written—memos which James Comey, former Deputy Attorney General, said the United States would be ashamed if they ever became public.

I say to the Senator from North Dakota that not only do we have to do our part, but this administration has to do its part as well. Those who were engaged in this questionable—if not embarrassing, if not shameful—conduct involving torture policy must be held accountable to the administration. They are certainly not deserving of a promotion, which is what they are suggesting for Mr. Bradbury.

I ask the Senator from North Dakota, reflecting on what this administration has been through, the many times they have told us torture was not being used, that waterboarding was not being used, and now with this disclosure of at least three instances admitted under oath, I wonder if even this legislation—including the Feinstein amendment—would restrain this President in the future, in the next few months, as we face challenges that we cannot even imagine at this moment.

Mr. DORGAN. Mr. President, it is far more than disappointing to me, and I think to a lot of people in this Chamber and across the country, that the President received advice from people who work for him in the White House and have said this under oath and on television and in every other venue that under the Commander in Chief powers, the President has the power to do almost anything. He can put out a drift-net and collect every communication under every condition—e-mails and telephone calls. Go to the documentary recently done, entitled ''No Way Out'' and view the interviews by this administration's officials, who take the position that this President has the authority as Commander in Chief to do almost anything. That includes this issue of torture.

The point I make is that we have a piece of legislation that we will vote on later this afternoon. Included in that legislation is a provision that says the Army Field Manual will describe the conditions of interrogation of enemy combatants. I just read what General Petraeus said to all of his soldiers—that torture is inappropriate and will not be allowed. The Army Field Manual prevents torture. What we are saying in the conference report that we will vote on in an hour or two is that the Army Field Manual's restrictions on torture apply to all U.S. Government officials and contractors doing interrogation.

My concern about this administration—and I think it is echoed by the Senator from Illinois—is that they have decided they are not bound by the law, they are not bound by what the Congress enacts. They are doing other sorts of dances with signing statements and interpretations of the Constitution to say that under the Commander in Chief powers they can do almost anything if they believe there is some kind of a threat. That is a very dangerous mind set, in my judgment, for any administration at any time.

Mr. DURBIN. If the Senator will yield for one last question, I thank him for that quote from President Washington which talked about the terrible circumstances the Continental Army faced and how, in those days before there even was an America, they would establish a different set of values in this part of the world. He admonished his troops to live by those values.

I am sure the Senator knows that each year our State Department publishes a report card on human rights of nations around the world. We are critical of nations that engage in torture. We are critical of nations that engage in conduct that is inconsistent with our values. I say to the Senator from North Dakota, how can we maintain that moral status and moral authority if we are found compromising something as fundamental as torture and waterboarding and the Geneva Conventions, which guided us for decades?

Mr. DORGAN. The Senator answers the question by phrasing the question. Let me conclude by saying this: We have 43 top retired military leaders of the U.S. Armed Forces who have written a letter. As one, they say:

> We believe it is vital to the safety of our men and women in the uniform of the United States not to sanction the use of interrogation methods it would find unacceptable if inflicted on our captured Americans.

Today there are men and women fighting for this country. If captured, how would we react if the leader of a group that captured them says: We are torturing them because we feel we can get information, and we can only get it by torturing them, and we believe torture is legal. We are going to waterboard them, we believe it is legal. We have already done it, and we intend to do it again if we need to.

How would we feel if that were somebody else talking about how they are going to treat American soldiers? That is unacceptable. We have a country with a higher moral purpose and standards that have served us for two centuries, and we should not obliterate that just because we have some people in this administration who believe it is appropriate. It is not.

JOHN MCCAIN knows that. He led the fight to put a provision in law that prohibits torture. This President did a signing statement next to the legislation he signed, saying: I don't have to abide by it if I don't feel like it.

That is a scary thought in a democracy. I hope this afternoon we will register a very strong vote in support of this conference report and against the concept of our country engaging in torture.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the vote on adoption of the conference report to accompany H.R. 2082, the Intelligence Authorization Act, occur at 4:30 p.m. today; that no points of order be in order; and that the time until then be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. So there is an equal balance of time in the next—we have 2 hours. I think it should work out fine. Either side will have approximately an hour, so that should work out well.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I want to follow the lead of the distinguished Senator from North Dakota and my friend, the Senator from Illinois, and continue on this question with the determination the Government has made that waterboarding is legal.

It is a question that matters so much to wary and watchful nations, disheartened and distrustful in the wake of 7 years of failed leadership and broken promises. It is also a question that matters immensely to the billions of men, women, and children around the globe who look to this country, the United States of America, as a beacon of light that shows the way nations ought to act and the way the world ought to be. It is a question that matters to the American people who are sick of asking: Is it wrong? and being told: Well, it depends.

The people of America still do not know how this came about—in particular, how the Department of Justice came to approve this sordid technique. I believe we are in a position where the concerns we have about torture overlap with some of the concerns we have had in this Chamber about the independence and integrity of the Department of Justice. Here is what we know.

We know that Attorney General Michael Mukasey has said that ''the CIA sought advice from the Department of Justice, and the Department informed the CIA that [waterboarding's] use would be lawful under the circumstances and within the limits and safeguards of the program.'' We know in 2002, John Yoo of the Office of Legal Counsel drafted a memo, later approved by Assistant Attorney General Jay Bybee, which reads, in part:

> There is a significant range of acts that, though they might constitute cruel, inhuman, or degrading treatment or punishment, failed to rise to the level of torture.

As Evan Wallach of the Columbia Journal of Transnational Law has written:

> None of the Memo's analysis explains why waterboarding does not cause physical or psychological pain sufficient to meet the criminalization standards it enunciates.

We have asked for further clarification, but in a hearing before the Judiciary Committee, Attorney General Mukasey refused to comment on the legality of waterboarding because the technique was not currently in use and because of what he described as ''the absence of concrete facts and circumstances.'' Even though the Department of Justice is now conducting an investigation into whether tape recordings of alleged waterboarding sessions were improperly destroyed, they would not look into whether the conduct on the tape was in and of itself improper.

The argument is that no one who relies in good faith on the Department's past advice should be subject to criminal investigations for actions taken in reliance on that advice, which raises the question within the question: How did that advice come to be given in the first place?

How did the best and brightest of the Department of Justice overlook the facts of the history of waterboarding prosecutions in which the United States was directly involved, and why was such guidance approved when contravening precedents appear clearly to be in evidence?

Mr. President, I commend to my colleagues the article written by Evan Wallach, Columbia Journal of Transnational Law, entitled ''Drop by Drop: Forgetting the History of Water Torture in U.S. Courts.'' The full cite is 45 Columbia Journal of Transnational Law 468 (2007).

Mr. President, the U.S. Government long considered waterboarding a form of torture, prosecutable as a war crime and punishable accordingly. This history includes war crimes prosecutions against Japanese soldiers who waterboarded American aviators in World War II, the use of water torture by U.S. soldiers in the Philippines, and even an incident of waterboarding by a local sheriff prosecuted by the Department of Justice itself. Let me start with that.

I am reading from the Wallach law review article in which it reports:

> In 1983, the Department of Justice affirmed that the use of water torture techniques was indeed criminal conduct under U.S. law.

A sheriff in a Texas county waterboarded prisoners in order to extract confessions. Count one of the indictment asserted that the defendants conspired to—and this is a quote from the Department's own indictment—''subject prisoners to a suffocating 'water torture' ordeal in order to coerce confessions. This generally included the placement of a towel over the nose and mouth of the prisoner and the pouring of water in the towel until the prisoner began to move, jerk, or otherwise indicate he was suffocating and/or drowning.''

The sheriff and his deputies were all convicted by a jury under count one. It didn't end there. The case then went up on appeal, and the United States Court of Appeals for the Fifth Circuit rendered a decision. I have in my hands *United States of America* v. *Lee*, 744 F.2d 1124, decided in 1984, in which they gave appellate review of these convictions.

Finally, at sentencing, U.S. District Judge James DeAnda's comments, according to the article, were ''He told the former Sheriff that he had allowed law enforcement to fall into 'the hands of a bunch of thugs. The operation down there would embarrass the dictator of a country.' '' That is the opinion of a U.S. district court judge at a sentencing on waterboarding.

How is it that when the Department of Justice, the Office of Legal Counsel were asked for their opinion, they were able to write this opinion? I have it in my hand. This is the unclassified version. It has been substantially redacted. Even so, it is 50 pages long—50 pages long. They did 50 pages of legal research and could not find a U.S. Court of Appeals case in which the Department of Justice itself had brought the charges? Here is the case, United States v. Lee. It describes the facts:

Lee was indicted along with two other deputies, Floyd Baker and James Glover, and the County Sheriff James Parker, based on a number of incidents in which prisoners were subjected to a ''water torture'' in order to prompt confessions to various crimes.

Throughout the rest of the opinion, these are referred to as ''torture'' and ''torture incidents.''

All one has to have is Lexus or Westlaw and plug in the words ''water torture'' and find this case. How is it possible that the Office of Legal Counsel could not have found this? How is it possible that they could have also missed what the Columbia Law School was able to find—a telegram from Secretary of State Cordell Hull to the Japanese Government objecting to the mistreatment of American prisoners, which included specifically waterboarding and describing the ''brutal and bestial methods of extorting alleged confessions''? That is our Secretary of State in an official communication to the Japanese Government describing, among other tortures, water tortures as brutal and bestial methods to extort alleged confessions. How could they not have found that? How could they not have found the charges the Senator from North Dakota referred to in which Japanese soldiers were brought up on charges in front of military tribunals—military tribunals staffed with American judges, military tribunals staffed with American prosecutors—for waterboarding American prisoners?

Here are some examples. One of the Japanese officers was named Hata and the article describes the charges and specifications against Officer Hata, which included this:

. . . Hata did, willfully and unlawfully, brutally mistreat and torture Morris O. Killough, an American Prisoner of War, by beating and kicking him, by fastening him on a stretcher and pouring water up his nostrils.

Similarly, Hata did willfully and unlawfully, brutally mistreat and torture Thomas B. Armitage, William O. Cash and Monroe Dave Woodall, American Prisoners of War, by beating and kicking them, by forcing water into their mouths and noses. . . .

The charge and specifications against Officer Asano were:

Asano did, willfully and unlawfully, brutally mistreat and torture Morris O. Killough, an American Prisoner of War, by beating and kicking him, by fastening him on a stretcher and pouring water up his nostrils. . . .

Asano did, willfully and unlawfully, brutally mistreat and torture Thomas B. Armitage, William O Cash and Munroe Dave Woodall, American Prisoners of War, by beating and kicking them, by forcing water into their mouths and noses. . . .

The charge and specifications against Officer Kita were again, ''willfully and unlawfully, brutally mistreat and torture John Henry Burton, an American Prisoner of War, by beating him and by forcing water into his nose.''

Over and over the testimony describes exactly what we know as waterboarding. The charges and specifications by this tribunal staffed by American officers describe that they did willfully and unlawfully commit cruel, inhuman, and brutal acts and atrocities and other offenses, including strapping them to a stretcher and pouring water down their nostrils, by holding the prisoner's head back and forcing him to swallow a bucketful of sea water over and over and over.

How could they have missed it? How could they have missed it? How could they miss the decision on point by the U.S. Court of Appeals for the Fifth Circuit?

What else do we know about the Office of Legal Counsel? We know that the conditions there were pretty ripe for abuse. We know they were doing this in secret, protected from public scrutiny, protected from peer review, protected from critical analysis under the veil of secrecy, deep secrecy in which they were operating, coming up with the theories as they pleased, thinking they would never see the light of day. So they did not have to do their homework. Somebody might have done a little research and found the Fifth Circuit decision on point, but, no, they did not need to.

It is part of a pattern because, as the Presiding Officer will recall, when I was offered the chance to read the secret Office of Legal Counsel opinions related to the warrantless wiretapping program, I went and took some notes, and when I got back here, I eventually was able to get them declassified. They described other interesting theories that grew in that hothouse of legal ideology, protected from the glare of public scrutiny, ideas such as the President is not obliged to follow Executive orders. He is not obliged to give anybody notice that he is violating Executive orders. He can live in a parallel universe in constant violation of his own Executive orders and nothing is wrong with that, other than, of course, the fact that it completely degrades and destroys the entire structure of Executive orders as a law function of the United States of America.

Another argument is that under article II, the President's power as Commander in Chief, he has the authority to determine what his powers are. Think about that for a moment. They assert article II gives them the authority to decide what the scope of his article II powers are. I seem to remember a decision called Marbury v. Madison saying it is ''emphatically the province of the judicial department to decide what the law is.''

The last one, my personal favorite, is that the Department of Justice is bound by the legal determinations of the President. It is a good thing that was not the case when President Nixon was the President and made the legal determination if the President does it, it doesn't violate the law.

So what on Earth has been going on at the Office of Legal Counsel, an office that used to be distinguished for its probity, for its analysis, for its scholarship, an office on which the Department of Justice relies?

Just as Americans rely on the Department of Justice to provide guidance in our Government, to provide a moral compass within the Department of Justice, the Office of Legal Counsel is supposed to be the place where they try to get it right. How could they try to get it right when they cannot even find a Fifth Circuit Court of Appeals decision on water torture when you are looking up whether it is illegal? If I were a partner in a law firm and a junior associate came to me with a memo such as this that had missed the case on point, do you think he would have much of a career? I don't think so. It is a fatal failure of legal analysis. And yet, where there is supposed to be the very best at the legal counsel of the Department of Justice, they missed all of it. If there has been a systematic breakdown in this institution of Government long known for probity and scholarship, if it has been captured and behind a veil of secrecy rendered a political ideological tool, that is a matter of very legitimate public concern.

I am pleased to say Senator DURBIN and myself have written to the inspector general of the Department of Justice and to the Office of Professional

Responsibility of the Department of Justice to look into exactly that matter.

I thank the Presiding Officer for his patience with me. I thank the distinguished Senator from Florida for his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, we have heard one of the best—I cannot use ''oration'' because it was far superior. It was one of the best explanations of how the Department of Justice has gone awry by the Senator from Rhode Island. I commend the Senator from Rhode Island. I thank him for his legal analysis, and I wish to underscore what he has said, that the reason the Department of Justice was ignoring that Court of Appeals decision, the reason the Department of Justice was ignoring all of the history of the record that has been built over time, of which the Senator cited the statements from World War II, the reason all of that has been ignored or purposely missed is because the Department of Justice became politicized so that politics became the rule of the day instead of the rule of law.

In a nation that recognizes it is a nation of law, not a rule of men, when politics is inserted for law, then we get into the trouble we have gotten into. That is what brings us here.

I have already addressed this subject of why my conclusion, a long deliberative process of coming to the question, that we ought to etch into law the Army Field Manual as the standard by which the intelligence community will carry out their interrogations. That ought to be the law.

I thank the Senators who have spoken in favor of this legislation. We are going to have a chance to vote on it pretty soon. Each of us can determine what we think ought to be representative of America, if it ought to be torture or not. We are clearly going to have an opportunity to say that because we are going to vote on a proposed law that says: Is torture going to be the standard for America?

I wish to speak on another subject, so I guess the appropriate parliamentary procedure is for me to ask consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAPE AND SEXUAL ASSAULT INVESTIGATIONS

Mr. NELSON of Florida. Mr. President, thus far, the Department of the Army has acknowledged that there have been 124 incidents of sexual assault against contractor and military personnel in Iraq which are currently under investigation. We know of only three of those cases that are now being considered by the Department of Justice and, therefore, the Department of Justice will not respond to my entreaties about this investigation because they say it is an ongoing criminal investigation.

However, in other cases, we have gathered some facts, and these facts have been quite telling. There does not seem to be a standard to protect female contractors or military personnel from sexual assault in Iraq under the jurisdiction of the U.S. Army. The 124 cases of sexual assaults of both contractors and military personnel have been acknowledged just under the Department of the Army. The question is, under the other branches of the service whose contracts are being administered by civilian contractors, how many are there; and are there similar cases in the other theater of operations—Afghanistan as well as in Iraq?

What we also know from the facts we have gathered thus far is the problem is not within the U.S. military nearly so much as it is among contractor personnel because there is a nebulous set of regulations as to how it is to be handled on the reporting of a rape. Untold numbers of sexual assaults have been committed in Iraq, and the Departments of Justice, Defense, and State are providing very little information on whether they have been prosecuted. It is time we have this information.

Last December, I wrote to the Secretary of Defense asking him to launch an investigation by DOD's inspector general into the rape and sexual assault cases in both Iraq and Afghanistan. I sent similar letters to the Secretary of State regarding the investigations carried out under the Bureau of Diplomatic Security, and I requested that the Attorney General update me on the status of the related criminal investigations. I asked whether and why evidence in the sexual assault cases was turned over to the private firms.

I got into this when one of my constituents in Tampa, FL, came forth and told about the assault case. This had followed a Texas case that had been elevated to the public sphere. Apparently, one of these women was assaulted, then went to see the doctor, and a rape kit was prepared by the military doctors. That kit would have the evidence of the rape, and it was turned over to the civilian contractor. Suddenly, the rape kit disappeared.

So the question is, what steps has the Department of Defense taken to ensure the full investigation and prosecution of these cases?

In the meantime, the Department of State has told our office that diplomatic security has investigated four cases. One of them was the Texas lady, and that was where a contractor personnel assaulted another contractor personnel. Another involved a State Department employee who allegedly assaulted a woman employed by a contractor—in this case KBR. Then another case involved two State Department employees. According to the State Department, three of the cases were referred to the Department of Justice for investigation and possible prosecution.

Recently, our Senate staff met with representatives of the Department of Defense IG's office, and we asked them to brief us because of the response received from the Department of Defense, which certainly did not answer my questions. The inspector general's office stated that, and this is what blew our mind, the Army Criminal Investigation Command has investigated 124 cases of sexual assault. Now, that is just the Army, and that is just in Iraq. And that is just in the 3 years of 2005, 2006, and 2007. So what about the other services and what about Afghanistan?

So this naturally leads me to question whether there could be hundreds of additional investigations going on about contractor personnel—specifically in the ones that have come to us, it was the contractor KBR—and it suggests that perhaps there could be many assaults that have not been investigated at all. And because the inspector general's office would not provide information on the disposition of these investigations, it certainly is unclear whether there has been any prosecution of these within the military or the criminal justice systems, or whether it has been dealt with administratively.

Now, one of my Florida constituents was, and I will use the word advisedly, allegedly sexually battered in Iraq in 2005. And although the Naval Criminal Investigative Service was supposed to be investigating her case, they will not even say anything about the basic matters of the case because, the Navy says:

> Law enforcement records are exempt from disclosure at the time requested if it can be reasonably expected to interfere with the enforcement proceedings.

I think we in this Congress, we in the Senate, and those of us on the Senate Armed Services Committee and the Senate Foreign Relations Committee, certainly have an obligation to investigate. Because cases such as this can languish far too long without any information from the Government coming forth in order to protect these individuals.

So I have asked that our office follow up with the Defense Department, with the following detailed questions: The actual numbers of the sexual assault cases reported since 2001 in Afghanistan and since 2003 in Iraq and the disposition of each case. I have asked to have the information of the service components or the Government agencies involved in each resulting investigation. I have asked for the status of the persons involved in each case—in other words, I want to know whether they are Active military, U.S. Government civilian employees, contractor employees or are they an Iraqi or Afghani national.

I have asked for an explanation of the U.S. jurisdiction or the investigative authority for sexual assault allegations in both those areas in which we are engaged—Iraq and Afghanistan. And I have asked for a clear explanation of the rules, regulations, policies, and processes under which sexual assaults are investigated, evidence is obtained, and responsible individuals are held accountable. I have also asked

for a clear explanation of how the Department of Defense divides authority among all its various investigative arms in these sexual assault cases.

I have had to ask these questions because DOD and the Department of State have not been forthcoming. Yet what is being told by some of these assault victims is absolutely horrifying. For example: One female contractor employee, during cocktail conversation, suddenly, totally, passed out. Apparently, her drink had been spiked. She awoke to find out she had been assaulted many times. Upon seeing a military doctor, in fact, that was confirmed and the rape kit was prepared. But when the rape kit was turned over to the contractor, it amazingly disappeared. The evidence disappeared. That contract employee then, upon asking questions, was locked in a container and could not get out of the container to go and tell her story to other personnel of her contractor, and she only got out because she was able to persuade someone to let her use a cell phone to call her father back in the United States. That is how she got out of her confinement.

Now, if all of that is true, there is simply no excuse for this. But what we need to determine is the truth. It is a shame that the senior Senator from Florida has to come to the floor of the Senate to elevate this issue in order to say to the Department of Defense and the Department of State that we want the answers to our questions.

I have asked the questions. I expect, on behalf of the Congress of the United States, that we will get the answers.

I yield the floor.

Mr. President, I ask unanimous consent that the time during the quorum be equally divided between the two sides.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I spoke earlier this morning, so I will be brief.

It would appear that the Senate is poised to pass a measure that would end the debate over torture in our Nation. It would require the CIA to follow the Army Field Manual when it comes to interrogations of detainees, and it would create a uniform standard for interrogation across the Government. It would prohibit waterboarding and certain other coercive interrogation techniques. I deeply believe it will go a long way toward restoring our Nation's credibility.

I have spoken with experts on interrogation, numerous retired three and four star generals, and human rights leaders. From our discussions, I am absolutely convinced that we must have a uniform standard for interrogation of detainees across the Government. That is what putting the CIA under the Army Field Manual would do.

This debate is about values. We are a nation of values, and we believe in the rule of law. It is fair to say that America has been diminished around the world. Our standing is at an all-time low, not only among our allies but also our enemies. This comes from Abu Ghraib. It comes from Guantanamo. It comes from renditions, and it comes from black sites. It comes from waterboarding, a technique used during the Spanish Inquisition to get religious dissenters to publicly disavow their beliefs.

Let me give one example of why a clear, single standard for all detainee interrogation is needed.

Until a couple of weeks ago, the executive branch refused to admit that it had waterboarded anyone.

Then last week, at a public hearing, General Hayden stated that the CIA has waterboarded three detainees: Abu Zubaydah, Abd al-Rahim al-Nashiri, and Khalid Sheikh Mohammed. General Hayden said this was done in the past and would not be used in the future.

In fact, General Hayden said that waterboarding itself was no longer necessary. These were two major revelations. The U.S. Government had, in fact, authorized waterboarding, and we weren't going to do it again.

The very next day, a White House spokesman, Tony Fratto, said the President could reauthorize the use of waterboarding at any time. At this point, we had returned to a state of confusion. The CIA was saying waterboarding was not authorized and not needed. The White House was saying waterboarding was still on the table.

That was not the end. The very next day, General Hayden testified in open session again, this time in front of the House Intelligence Committee. Here is what he said:

> In my own view, the view of my lawyers and the Department of Justice, it is not certain that that technique—

Meaning waterboarding—

> would be considered lawful under current statute. . . .

So here you have a mix of views. Here you have unclear American policy.

The bill which we have before us today clears up that confusion, and it states once and for all what the U.S. Government would do; that there would be 19 specific approaches documented over many pages for each approach in this volume, and 8 specific techniques that are banned, one of which is waterboarding.

So we have the opportunity today to take a stand—to clear the air and to say that the U.S. Government follows uniform specific standards for interrogation of detainees as put forward by the Army Field Manual.

I would like to quote a statement the President of the United States—President Bush—made on June 22, 2004. Here is his quote:

> We do not condone torture. I have never ordered torture. I will never order torture. The values of this country are such that torture is not a part of our soul and our being.

President Bush, if you stand by these words, you will sign this intelligence authorization bill.

Thank you, Mr. President. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, how much time do I have left out of the 5 minutes?

The PRESIDING OFFICER. A minute and a half.

Mrs. FEINSTEIN. Mr. President, if I may, I very much would like to thank a few people who have been very helpful in this whole thing. The first is David Grannis, my intelligence liaison, who has been with me all the way. I thank the Partnership for a Secure America and the 18 former national security officials who wrote in support of the Army Field Manual.

I thank Senators HAGEL and SNOWE for taking a stand for what is right for America in the Intelligence Committee. I thank our chairman, Senator ROCKEFELLER, for being willing to risk the passage of this legislation by supporting this very important amendment.

I also thank Senator WHITEHOUSE. He offered this amendment when it was in the Senate Intelligence Committee. I thank him for his tireless efforts in support of this conference report. I have seen him on the Senate floor at least twice today. He was a cosponsor of the amendment I offered in the conference, and I know his staff has been very effective in working on this amendment.

I thank Senator TOM CARPER of Delaware who has done a lot of work on this issue on the telephone.

I thank my colleague and friend, Senator RON WYDEN, who came earlier to the floor to speak on this issue.

So there have been many people working toward this vote, and it looks as if it may just happen. I would like them to know that we are very grateful for their support.

Oh, one more: Senator FEINGOLD. Senator FEINGOLD was a cosponsor

when I offered the amendment in the Intelligence Committee. I very much thank him for his steadfastness.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican whip.

Mr. KYL. Mr. President, we are going to be voting in about an hour or so on the conference report on the Intelligence Authorization Act. I would like to explain briefly the reasons I think we should vote against that reauthorization.

There are two primary reasons. First has to do with the additional provision that was passed neither by the House nor by the Senate but was dropped into the conference report without Republican involvement; that is, the provision that Senator FEINSTEIN authored that would substitute for the authority that agencies of the United States currently have—agencies such as the Central Intelligence Agency—to interrogate foreign terrorists. It would substitute for the current rules under which they operate the U.S. Army Field Manual.

The U.S. Army Field Manual is a document that is prepared for use for all of our military Armed Forces, to provide rules of the road for them in interrogating enemy prisoners of war. So when they capture someone on the battlefield, in order to ensure that the Geneva Conventions are adhered to, there is a set of guidelines set out in the Army Field Manual that very explicitly explain to our soldiers exactly how they need to treat these prisoners and what kind of interrogation in which they can engage.

A couple of years ago, when the Congress and the administration got together and revised our procedures and the statute dealing with this subject, the explicit decision was made to not have the Army Field Manual govern the interrogations by other Government agencies. That was a wise decision then, and it is a wise decision now.

There are reasons the U.S. Army would want to have a set of rules for soldiers capturing enemies on the battlefield. But there is quite a different situation presented when you have captured a terrorist and you want to interrogate that terrorist and you have at your disposal Central Intelligence Agency trained personnel or other special personnel who are trained in interrogation techniques that comply with the Geneva Conventions accords, are not torture, are authorized by law, but may be outside the particular scope of the Army Field Manual.

This is a gross oversimplification, but for people to generally appreciate what I am talking about, you have all seen movies where a prisoner of war is captured, and they say: Give me your name, rank, and serial number, and that is pretty much all an enemy soldier is required to provide. You cannot torture them to get them to tell you anything beyond those three pieces of information, and that is as it should be.

Interestingly, our terrorist adversaries know well the Army Field Manual, and if they are captured as enemy POWs on the battle ground by U.S. Army personnel, they know precisely what kind of interrogation to expect. In fact, we know they are trained on how to resist the interrogation techniques and not provide information. It would be a horrible mistake for us to assume that the techniques that are appropriate for Army battlefield capture interrogation should apply as well to situations in which a CIA person is interrogating a terrorist—someone who is not fighting for another country in a uniform captured on the battlefield.

That is the essence of the Feinstein proposal, and it is one of the reasons the President has made it very clear that were this conference report to pass, he will veto the bill; indeed, he should.

There are other reasons for the President's decision to veto the bill as well. Let me just mention a couple of them. One of the things that relates to this interrogation matter is a requirement in the bill that a report to Congress must be made of the identity of each and every official who has determined that any interrogation method complies with specific Federal statutes, why the official reached the conclusion, and the related legal advice of the Department of Justice.

This may seem benign on the surface but, I submit, is in the nature of harassment of officials who are trying to make decisions about the application of law. They come to judgments. They advise the people who are asking for the advice, and then action is taken on that basis. If Congress needs a report every time a Government official makes a decision, clearly that agency cannot function.

Secondly, there are too many opportunities for second guessing, too much of an incentive for the people who are doing the work we ask them to do to not make any decisions, not engage in that work because they might make a mistake. This is exactly the kind of ethos we do not want in our intelligence community.

Another requirement of the bill is the creation of another inspector general. We already have inspectors general for each of the elements of the intelligence community, but there would be a new one under the DNI. But his primary responsibility would be to report to Congress rather than the DNI.

There are other requirements for reports that have already occupied far too much attention of our intelligence community. There are requirements for congressional confirmation of several new positions, positions that currently do not require congressional confirmation because they are not political offices. It is the head of the NRO, for example, the head of NSA. These are agencies that have been peopled with professionals, people who do not have anything to do with politics. They should not have to come to the Senate and get grilled by Senators—more importantly, Senators who then might hold them up.

You have heard about the holds Senators place on nominees. I do not know how many executive nominees and judges we have waiting confirmation by the Senate right now, but there are a lot. What happens is, because Senator X does not like the administration's position on something, they decide to put a hold on an important executive branch nominee. As a result, too many positions are vacant today because of unrelated holds by Senators. It just presents the Senate with an additional way to hold up action on people, in effect, to blackmail an administration into doing what it wants.

There are a variety of other problems the President has pointed to in this legislation that will require the President to veto it. But I want to conclude by simply saying that a great deal of credit goes to Senators ROCKEFELLER and BOND for their work in trying to create an authorization bill for the intelligence community against great odds. There is a lot of disagreement among people on the Intelligence Committee itself, as well as others in this body, about what ought to be done, and they came to, in effect, an agreement that except for the Feinstein proposal—that, as I said, was added in the conference; it was not passed by either the Senate or the House—they came to an agreement on a bill that Senator BOND has described as pretty effective.

Hopefully, with the President now indicating he will veto the legislation over the provisions I have identified, and some others, the other side will recognize it is important to fix those problems, clean it up, get a bill back to the President he can sign, and we can move forward.

FISA

Now, the last thing, Mr. President, I want to do is change the subject very slightly because we just had a conversation with the President, who reiterated his deep concern about the apparent unwillingness of the House of Representatives to reauthorize the Foreign Intelligence Surveillance Act so that we can engage in intelligence collection against this country's worst enemies: al-Qaida and other terrorists.

This body, with a vote of 68 to 29—a very bipartisan vote—agreed on a Foreign Intelligence Surveillance Act reauthorization for a period of 6 years. The key feature of it—different from the current law—is retroactive immunity for those telecommunications companies that might have assisted the United States in gathering this intelligence. That was following the Intelligence Committee's work—again, great work; 13 to 2 was the vote in the Intelligence Committee, bipartisan—supporting that legislation. It has now been sent to the House of Representatives. All the House of Representatives needs to do is to take this bill, which has bipartisan support in the Senate, pass it, and send it to the President for his signature.

The President's point, just a few moments ago, to us was it would be an abdication of responsibility for the Congress not to accomplish this result before it leaves on a recess on Friday.

This intelligence collection is critical to the security of the United States. The point of the most recent legislation is to provide retroactive liability protection for those companies that have aided the United States pursuant to its request.

In effect, what happened was the President and the Attorney General requested various telecommunications companies to help us collect electronic information on people we have targeted as necessary for collection purposes. They did not have to do it. They volunteered to help us. They understood the threat to the United States and, like any good citizen would do when called upon by the Commander in Chief, they agreed to assist. Now, some of them have been sued. They are, of course, accountable to their boards of directors who have a responsibility under Federal law to protect shareholder interests.

What some of these companies are finding is an increasing difficulty of assisting the United States and continuing to stay in business. They have their own business responsibilities. They have to engage in activities both in this country and in other countries sometimes. They have to get customers. They have to make business agreements with other parties. When too many other folks say: We don't want to do business with you because of the potential that you are going to be sued or that you have been sued, and then there is the question of whether we are going to be drawn into all that, then it makes it impossible for those companies to assist the United States.

The point is this: There is an increasing concern that some of these companies are not going to be able to provide this assistance to us if we don't solve this retroactive immunity issue. Some people have said: Well, we will simply temporarily extend the existing law. The reason that doesn't solve the problem is because the existing law doesn't provide that retroactive immunity. That is the point of this legislation, and if this legislation doesn't provide that retroactive immunity pretty soon, there could well come a point in time when we don't have any telecommunications companies left doing this work for us to matter.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. KYL. I am delighted to yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I am delighted the Senator from Arizona brought this up because I have participated in a number of debates with our distinguished colleague from Missouri. What we always have to remind our colleagues of, as well as the American public, is that these companies have volunteered. They are not in this for a profit motive. There is some compensation for expenses. They are not unlike the men and women of the Armed Forces, all of whom today are in uniform because they raised their right arm and volunteered. We cannot ask these companies to subject themselves to the uncertainty and the threats associated with legal processes. We are going to lose a very important component of what I call the American spirit: voluntarism. Whether it is in the corporate world, whether it is in the Armed Forces or any other number of activities, we are a Nation known for people who step forward and volunteer.

This is a clear example of how these companies cannot continue under the situation that persists today, because the directors of those companies, their corporate boards, have an obligation to their stockholders. It is a stretch to say to the stockholders, who are part of the voluntarism they are doing to serve the cause of freedom in the United States, that they should be subjected to a lot of court suits.

So I appreciate the Senator bringing this up. It is important. We have to remind our colleagues about it. I am proud of what this Chamber did. They voted it through, very clearly.

Mr. KYL. Madam President, if I could say to the Senator from Virginia, I hadn't thought of putting it quite the way he did. He is, exactly right. We have thousands of young men and women who volunteer to serve their country. What would we think if part of that service means getting sued by somebody? Wouldn't we provide them protection from those kinds of lawsuits? Obviously, we would. The companies that serve us every day when we pick up the phone to make a phone call—we want them to be there to help us—they step forward when the President asks them to volunteer to serve their country, at no profit, as the Senator makes clear, and then they get sued and we are not willing to provide protection to them.

Mr. WARNER. Madam President, I couldn't agree more. Furthermore, the service they are doing by virtue of this voluntarism directly contributes to the safety and the welfare of the men and women in the Armed Forces who are engaged in harm's way beyond our shores.

Mr. KYL. Madam President, that is another very good point.

Mr. WARNER. At this point, we have about run out of time, and I wish to say a few words about the pending matter.

Mr. KYL. Let me conclude these remarks then. The key point I am trying to make is we have related activities. We have the Intelligence Authorization bill on the floor, but we also have a couple of days before this recess to see that the great work the Senate did is adopted by the House of Representatives so the President can sign it.

Having just come from the White House, the President asked us to please convey his sense of concern for the people of this country, for the security of those soldiers whom we sent to do a mission, if we can't get good intelligence on this terrorist enemy, and the only way—the best way we can do that is through the interception of these communications. It cannot be done if there are no telecommunications companies willing to assist us. There could well come a point in time when, because we haven't done our job of providing them liability protection, there is nobody there to provide the help to us.

So I thank the Senator from Virginia, and again I get back to my original point, which was I hope that in a few moments, knowing the President is going to veto this piece of legislation, we will support his position and vote no on the authorization conference report.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Virginia has 23 minutes remaining.

Mr. WARNER. Fine. That is under the control of the distinguished Senator from Missouri, and I will ask for such time as I may need at this point.

I have always considered myself, here in the Senate, to be most fortunate for the various assignments I have had through this being my 30th year. There have been periods when I have served on the Intelligence Committee. I was once the ranking member of the Intelligence Committee. Then, fortunately, I was selected to go back on the Intelligence Committee several years ago. It has been a part of my overall service to the Senate, and indeed to the Nation, to be on that committee.

I was at first introduced to the world of intelligence in 1969 when I was fortunate enough to go to the U.S. Department of Defense at the Pentagon and serve the Navy, first as Under Secretary and then Secretary. So I have actively been involved in the work of the intelligence community for some many years.

I am greatly concerned that we have before us today a piece of legislation which, even though a member of the committee and even though I worked with my colleagues to frame this legislation, I will have to vote against because of the actions that took place in the conference committee where an out-of-scope provision was put in—for the best of intentions, I am sure, but it wasn't carefully thought through, in my judgment, because this provision would say that henceforth, the CIA and the Federal Bureau of Investigation would have to conduct their interrogation procedures in accordance with the Army Field Manual.

I was privileged again to be one of a group of a small number of Senators who, in the year 2005, worked on the Detainee Act and then subsequently, in 2006, worked on other legislation to try to delineate carefully the responsibilities of various agencies and departments of our Government as it related to the all-important collection of our intelligence and a part of that collection procedure being the interrogation

of detainees. Now, we decided, after a lot of careful deliberation of the 2005 act, that we would restrict that to the men and women in the Armed Forces.

There was a very good reason for that. In the course of our conflicts in Iraq and Afghanistan, detainees came into the possession of our field forces, operating in combat conditions most of the times when these detainees were caught, and relatively, so to speak, while the military people are magnificently trained throughout their careers to deal with these situations of combat and the like, very few of them have had the opportunity to get into the profession of interrogation. In order to give them the protection they needed in performing interrogation at what we call the field and tactical level, it was important to draw up this act and to prescribe very clearly for the men and women in uniform—I repeat that: only for the men and women in uniform—very clearly the procedures they must follow to accord the values of our framework of laws, the fact that this is not a nation that stands for torture, and to also give them protection in the event that somehow they were challenged in a court of law, be it a military court or other courts, as to their performance by virtue of their interrogating activities of certain detainees. So there were many reasons to put it all down and say that this is the Army Field Manual, prescribe the authorized techniques, and therefore allow the men and women of the Armed Forces to continue their operations militarily, tactically, and to follow that field manual in such instances where it is necessary to interrogate detainees.

But in the course of that debate—and understandably and I think quite properly—attention was given to whether we should have this type of procedure applicable to all the Government agencies and departments of our Federal Government. The decision was made, and the answer was no—not quickly, no; it was a deliberate no reached after a lot of careful consideration—that this Detainee Act should be for the purpose of our military people, and we purposely did not include the CIA and the FBI. As time evolved into 2006, when we had that legislation, once again we reiterated we would not include either the CIA or the DIA and then in any way at that time legislate their program, other than to say that the conduct of the CIA program and the FBI program has to be in total compliance with all the laws of our land, which in no way sanctioned abusive treatment, torture or those sorts of things. It is not a part of it.

Furthermore, that both the procedures by the CIA and the FBI had to be in compliance with the treaties, the treaty obligations we have, particularly article 3, common article 3, which has been debated so carefully on the floor of the Senate.

So, in effect, what we have before us momentarily in this vote is overruling the decisions that were made by this body in the context of drawing up those two statutes, one in 2005 and one in 2006. So I, for that reason, feel very strongly that I cannot support this. I think it has been indicated that the President doesn't support it and that if this were to arrive at his desk, in all probability, we would have a veto, and that would be regrettable because a lot of work has been put into this bill. There are portions of it that the distinguished Senator from Arizona, Mr. KYL, talked about which hopefully can be corrected. But we need an Intelligence bill. We have marvelous staff in the Senate and others who work on this problem of legislation year after year, and we are long overdue to have an Intelligence bill. It is unfortunate that in the last throes of the legislative process, in a conference, this provision, which we clearly know to be out of scope, was put into the bill, and it is for that reason that I will have to oppose the bill.

There is another reason I would have to oppose it, and that is that the Army Field Manual, again, was for the military, but it is a manual. Certainly, under the current way it is framed and put together in the law, a manual can be changed. So while there are some 19 techniques that are detailed as approved for the use of our troops in the field and elsewhere, who is to say they couldn't add some more and that at that point Congress is not involved. So I am not sure people thought through the technical aspects of this thing, and to me, it is a very unwise decision.

But I wish to reiterate to our colleagues that by virtue of taking the stance I take—and I presume a goodly number of individuals will join in this, unfortunately, and vote against this bill—this is not to say, in any way, that we are sanctioning that the Agency, the CIA, employ techniques which are in any way constituted as abusive treatment of human beings or torture or degrading.

All of that is carefully spelled out in the framework of the laws of 2005 and 2006, and it cannot be done by the agency, nor the FBI—nor are they doing it. The Intelligence Committee has had a series of hearings. We have had the DNI, the Director of the CIA, the head of the FBI, and all of them have been carefully questioned and are on record saying that these procedures, which would be tantamount and antithetical to our laws of 2005 and 2006 are not employed now, and they will not be in the future.

It is for that reason that I will have to oppose this bill. I urge my colleagues to do likewise because we will be taking away from the agencies the ability to perform a very limited number of interrogations, a very limited number—but they do them in an entirely different framework of circumstances, environment, than does the Army or other military members of our Army, Navy, Air Force, and Marine Corps under the Army Field Manual.

The techniques applied by the CIA are in compliance with the laws, but they are not all written up so that a detainee knows full well that if they are apprehended, they will be subjected to the interrogation procedures of the agencies; he would know all about it if it is written up as it is in the Army Field Manual. That would take away a good deal of the psychological impact of highly skilled interrogating procedures. We are about to throw those away, abandon them.

This is a very dangerous and complex world. I sometimes think, in the course of this political campaign, as I listen to my good friends—three of them Members of this Chamber—vying for the Presidency of the United States, the awesome framework of complex situations that is going to face the next President of the United States. I must say, I have a few years behind me, and I have seen a good bit of history in this country, but never before has the next President, whoever it may be—never before have they faced such an awesome, complex situation in the world that is so fraught with hatred and terrorism and threats to the basic freedoms of our Nation and many other nations.

It is going to be a real challenge for that next President to shoulder the responsibilities of Commander in Chief of the Armed Forces of the United States. And this set of procedures that we presently have in place, which complies with the law of our land, which complies with international treaties, must be left intact to enable the Intelligence Committee to conduct their interrogations and do so to produce facts which could very well save this Nation and facts that are, every day, helping to save the men and women of the Armed Forces in uniform wherever they are in the world—primarily in Iraq and Afghanistan—as they pursue their courageous responsibilities on behalf of us here at home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I believe it is important to clear up for the record, for the benefit of my colleagues and the American people, some statements that were made earlier today about waterboarding, interrogation techniques and the Army Field Manual.

During the House and Senate conference for the fiscal year 2008 intelligence authorization bill, an amendment—section 327—was adopted that would prevent any element of the intelligence community from using any interrogation technique not authorized by the Army Field Manual.

Earlier today, we heard that the full membership of the conference committee, the full membership of the House Intelligence Committee and Senate Intelligence Committee all came to the conclusion that all interrogations should be conducted within the terms of the U.S. Army Field Manual.

Let's be clear: this particular amendment only passed by a one-vote margin. The conference was sharply divided on this issue, as reflected by the fact that no House Republicans signed the conference report and only two Senate Republicans signed the report.

The problem with this provision is not that it says that interrogators cannot use certain techniques. Most of the techniques prohibited by the field manual are so repugnant that I think we can all agree they should never be used.

In fact, this vote is not about torture, and it is not about waterboarding. We all think that torture is repugnant. And whether one believes that waterboarding is torture is really irrelevant because waterboarding is not in the CIA's interrogation program.

The problem is that the provision in the conference report establishes a very limited set of techniques, and these are the only techniques that any interrogator may use.

So the vote is really about whether the FBI and CIA should be restricted to a set of 19 unclassified techniques, designed for the Army, which have not been examined fully by some agencies.

If this legislation passes and is signed into law, all of us need to understand fully that FBI and CIA interrogators may only use the 19 techniques authorized in the field manual. And all of us need to understand that no one can say for sure that this will not impact our future intelligence collection.

As CIA Director Hayden has said: ''I don't know of anyone who has looked at the Army Field Manual who could make the claim that what's contained in there exhausts the universe of lawful interrogation techniques consistent with the Geneva Convention.''

If we are going to demand that all Government agencies must use only these techniques, we must make sure that the field manual does not leave out other moral and legal techniques needed by these agencies. And I don't believe that the Intelligence Committee has adequately pursued this issue.

Having a single interrogation standard does not account for the significant differences in why and how intelligence is collected by the military, CIA, and FBI.

Much has been made of the FBI saying that they do not use coercive techniques. That is accurate. The FBI operates in a different world—where confessions are usually admitted into evidence during a prosecution. This means that they have to satisfy standards of voluntariness that do not bind either the military or the CIA.

But significant concerns have been raised about whether the FBI would even be able to conduct ordinary interrogations using only those techniques authorized by the field manual.

A time-honored technique, one that has led to countless successful prosecutions, is deception—for example, telling a suspect that his associate has confessed even though the associate has refused to cooperate. But, it's unclear where this type of deception is authorized in the field manual. So, under this amendment, the FBI could be barred from using this simple, yet invaluable, technique.

FBI lawyers have told us that they need more time to conduct a full legal review of the field manual and determine along with their counterintelligence and counterterrorism divisions what impact using only the field manual would have on interrogations. We should give them time to do this review before we pass a bill that could severely undermine their interrogation practices.

Aside from these concerns, the Army Field Manual on Interrogation was designed as a training document. It is changeable, which means the Congress—and the CIA and FBI have no idea what techniques may be added—or subtracted—tomorrow, next month, or next year. A moving document is not a sound basis for good legislation.

There are also practical consequences to applying this unclassified military training manual to civilian agencies; as we heard earlier, having one standard that can be publicly judged by the entire world. We are talking about intelligence interrogations. We should not broadcast to the world, to our enemies, exactly what techniques our intelligence professionals may use when seeking information from terrorists.

The wide availability of the field manual on the internet makes it almost certain that al-Qaida is training its operatives to resist the authorized techniques.

Supporters of this provision also argue that the Army Field Manual gives interrogators sufficient flexibility to shape the interrogation. Yet, some of the techniques in the field manual are allowed only if the interrogator obtains permission from ''the first O–6 in the interrogator's chain of command.'' What that means is that an interrogator has to get permission from an Army or Marine Corps colonel or a Navy captain before proceeding. So in order to have any flexibility, will the CIA and FBI have to bring colonels and captains to all of their interrogations? These interrogations will get awfully crowded pretty quickly.

We have been told that the field manual incorporates the Golden rule. Do unto others as you would have them do to unto you is an admirable standard. But when dealing with terrorists who have shown no regard for morality, humanity, and decency, it is somewhat out of place.

Do we really expect that if we restrict ourselves to techniques in the Field Manual that al-Qaida will do the same? While we are arguing about whether waterboarding is torture, they are chopping off heads and using women and children to conduct their suicide bombings. Now, I am not suggesting that we resort to their barbaric tactics. I am simply saying that we should not base this important decision that will bind all of our intelligence interrogations on the hope that al-Qaida will discover civility.

Let me also clarify a comment from our distinguished committee chairman about the interrogation of Ibn Shaykh al-Libi. It was suggested that al-Libi lied to interrogators because of the CIA's ''coercive'' techniques. However, al-Libi was not in CIA custody—or foreign custody for that matter—when he made claims about Iraq training al-Qaida members in poisons and gases.

In fact, it was only when al-Libi was interviewed by CIA officers that he recanted his earlier statements.

I believe we still have a lot of work to do before we impose restrictions on CIA and FBI interrogations that could have severe consequences for our intelligence collection.

Now, I want to make clear what my position is here today. For the past several months, I have worked hard to put together a reasonable bill that allows the Intelligence Committees to conduct necessary oversight, while cognizant of the administration's concerns about resources and executive branch prerogatives.

I understand that no administration likes oversight. But oversight is essential to what Congress does: We have an obligation to the taxpayers to make laws and appropriate funds responsibly. And in order to do this, we have to know how the money is being spent and what activities are being conducted.

I have reviewed closely the Statement of Administration Policy on this bill and I am confident that we have addressed or resolved all but one of the concerns listed there. One provision remains that merits a veto and that is the amendment before us: the Army Field Manual interrogation techniques.

At the end of the day, if this provision is removed, I will support this bill. But in its current form, I cannot support it and I urge my colleagues to vote against the conference report.

Mr. President, I thank the distinguished Senator from Virginia, who has played the lead in so many things, such as the Detainee Treatment Act and other major pieces of legislation, for his very thoughtful discussion of these issues.

It has been very troubling to me to hear on the floor today some things about what the CIA does that are absolutely not true. We have heard all kinds of descriptions of techniques that are barred by the Army Field Manual. The techniques barred by the Army Field Manual, the horrors that were outlined, are not tactics the CIA uses. They do not use them. They would probably violate the Geneva Conventions and many other laws, which absolutely do cover interrogations by the CIA. When one raises the spectrum that the CIA may be torturing detainees, No. 1, it is not true; No. 2, for those who know what is going on, it is irresponsible; No. 3, it is the kind of thing

that fuels the media of our enemies. I would not be surprised to see some of these comments reported in Al-Jazeera.

What happened at Abu Ghraib was tragic. There were criminal acts by American troops. We punished them, but nobody talks about the fact that we punished them and sent them to prison. They went to the brig, as they should. Now we have heard discussions attributing to the CIA all manner of activities that are wrong, improper, not usable, and are not used.

I think it is important we clear the record. I wish some of the people who know better would say I didn't mean to say that the CIA does these things, because the people on the Intelligence Committee know precisely what is done and what is not done.

Mr. WARNER. Will the Senator yield for a moment?

Mr. BOND. I am happy to.

Mr. WARNER. As a Senator from Virginia, I am proud to have the CIA principal office in my State. I have been working with them for 30-some-odd years. I have gotten to know many of them through the years. They are not people who would set out to violate the laws of our Nation. They are just like you and me. They have families and the same values we share in the Senate and in our neighborhoods. They do go abroad and assume an awful lot of personal risk on a number of missions. But in terms of following the laws of our Nation, and the international laws, I think they stand head and shoulders, and they are to be commended.

Mr. BOND. Madam President, I thank my distinguished colleague from Virginia. He is one of the real experts in this body on military and intelligence affairs. I can tell you that having talked with General Hayden and the other top officers of the Agency, getting to know Attorney General Mike Mukasey and those other responsible, high-principled officials who are overseeing it, it is not a danger that we are going to see torture or inhumane or degrading treatment used.

Now, again, during the House-Senate conference for the fiscal year 2008 Intelligence authorization bill, an amendment—section 327—was adopted that would prevent any element of the intelligence community from using an interrogation technique not authorized by the Army Field Manual.

Earlier today, it was stated on the floor that the full membership of the conference committee, the full membership of the House Intelligence Committee, and the Senate Intelligence Committee came to the conclusion that interrogations should be conducted within the terms of the U.S. Army Field Manual.

Let me be particularly clear that this amendment only passed by a one-vote margin. The conference was sharply divided on the issue, as reflected by the fact that no House Republicans signed the conference report and only two Senate Republicans signed the report.

The problem with this provision is not that it says the interrogators cannot use certain techniques. Most of the techniques prohibited by the Army Field Manual are so repugnant that I think we can all agree they should not be and would never be used.

In fact, this vote is not about torture or about waterboarding. Despite what you have heard on the floor, it is not about waterboarding. Torture is repugnant. We have stated that time and time again—in the Detainee Treatment Act and in other laws we passed. Whether one believes it is torture is irrelevant because waterboarding is not in the CIA's interrogation program.

The problem is the provision in the conference report establishes a very limited set of techniques, and these are the only techniques any interrogator may use. So the vote is about whether the FBI and CIA should be restricted to a set of 19 unclassified techniques, designed for the Army, which have not been examined fully by some agencies. I say ''19 unclassified techniques'' because those techniques not only have been published widely, but they are included in al-Qaida training manuals. So the al-Qaida high-value leaders—the people with the information—know precisely what it is all about.

If this legislation passes, and were it to be signed into law—which all of us know it will not—we all need to understand fully that the FBI and CIA interrogators may only use the 19 techniques authorized in the field manual. According to the field manual, they would have to get a clearance from an OC–6, a military officer. That was designed for the military, not for the CIA, not for the FBI. When my distinguished colleague from Virginia passed the Detainee Treatment Act, he and the Senator from Arizona, Senator MCCAIN, expressly left the CIA out of the limitations to the Army Field Manual.

As CIA Director Michael Hayden has said:

> I don't know anyone who has looked at the Army Field Manual who could make the claim that what's contained in there exhausts the universe of lawful interrogation techniques consistent with the Geneva Conventions.

He described a whole area of techniques. There are a whole group of techniques that we use on the volunteers who join our Marines, Special Forces, our SEALs, our pilots, which I described earlier today. Many tactics are far more difficult to withstand than the techniques that are used by the CIA in its interrogation.

If we are going to demand that all Government agencies must use only these techniques, we must make sure the Army Field Manual doesn't leave out other moral and legal techniques needed by these agencies. I don't believe the Intelligence Committee has adequately pursued this issue.

How many of those techniques do we want to publish so our al-Qaida targets will know how to resist them? Having a single interrogation standard does not account for the significant differences in why and how intelligence is collected by the military, CIA and FBI, and from whom it is collected.

Much has been made of the FBI saying they do not use coercive techniques. That is accurate. The FBI operates in a different world—where confessions are usually admitted into evidence during a prosecution. This means they have to satisfy standards of voluntariness that do not bind either the military or CIA. When they question somebody, they are trying to stop a terrorist attack from happening in the future. They are in the field. The FBI is investigating a crime that has been committed in the hopes of punishing those people. There are significant concerns about whether the FBI would even be able to conduct ordinary interrogations using the techniques in the Army Field Manual.

A time-honored technique, one that has led to countless successful prosecutions, is deception—for example, telling a suspect that his associate has confessed even though the associate has refused to cooperate. But as I read the Army Field Manual, I don't see that that is authorized. So under this amendment, the FBI could be barred from using this simple, yet invaluable, technique.

FBI lawyers have told us they need more time to conduct a full legal review of the Army Field Manual to determine, along with their counterintelligence and counterterrorism divisions, what impact using only the field manual would have on interrogations. We should give them time to do this review before we pass a bill that could severely undermine their interrogation practices.

Aside from these concerns, the Army Field Manual on Interrogation was designed as a training document. It is changeable, which means the Congress—and the CIA and FBI—has no idea what techniques may be added or subtracted tomorrow, next month or next year.

Are we really ready in this body to define something as a standard, a changing field manual? When do we ever do that, saying everybody has to follow the Army Field Manual, and the Army Field Manual can be changed when and if it is ready. There are practical consequences. The unclassified military training level is not applicable to questioning high-value detainees.

This is, I suggest, a very bad measure. I believe the bill without this amendment would have been a very good one. I cannot urge my colleagues to vote for it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the conference report to accompany H.R. 2082.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Sentor is necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

Further, if present and voting, the Senator from South Carolina (Mr. GRAHAM) would have voted ''nay.''

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—51

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Hagel	Nelson (FL)
Biden	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kennedy	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Smith
Casey	Lautenberg	Snowe
Collins	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Menendez	Wyden

NAYS—45

Alexander	Crapo	McCain
Allard	DeMint	McConnell
Barrasso	Dole	Murkowski
Bennett	Domenici	Nelson (NE)
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Corker	Kyl	Voinovich
Cornyn	Lieberman	Warner
Craig	Martinez	Wicker

NOT VOTING—4

Clinton	McCaskill
Graham	Obama

The conference report was agreed to.

Mr. REID. Madam President, I move to reconsider vote.

Mr. LEAHY. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007—Resumed

Mr. REID. Madam President, I believe the regular order now is Indian Health. I would ask the Chair to report if that is in fact the case.

The PRESIDING OFFICER. That is correct.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1200) to amend the Indian Health Care Improvement Act to revise and extend that Act.

Pending:

Bingaman-Thune amendment No. 3894 (to amendment No. 3899), to amend title XVIII of the Social Security Act to provide for a limitation on the charges for contract health services provided to Indians by Medicare providers.

Vitter amendment No. 3896 (to amendment No. 3899), to modify a section relating to limitation on use of funds appropriated to the Service.

Brownback amendment No. 3893 (to amendment No. 3899), to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

Dorgan amendment No. 3899, in the nature of a substitute.

Sanders amendment No. 3900 (to amendment No. 3899), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981.

Mr. REID. Madam President, Senator TESTER has indicated to me that he has an amendment to work on. There are a number of people who want to offer amendments, and I think it would be to our advantage—it is not as if it is the middle of the night; it is still in the 4s—if there could be some amendments offered. We are going to work on this all day tomorrow and hopefully we can finish it Friday. If not, we are going to stay here until we finish it.

Indian health deserves this. There is no group of people in America who deserves our attention more than Indians. It is that way with the 22 different organizations in Nevada and all over the country. So I would hope we can work together.

I think we have had some success during these first few weeks of this year of Congress. We were at the White House with the President signing the stimulus bill. It is time to celebrate that. Was it everything we wanted? No. But it is good work, and we should all be proud of that.

We passed this conference report on intelligence, and the President will have to make a decision on that in the future, as to what he wants to do, but it is out of this body.

I hope we could move forward on Indian health. We have been waiting years to direct the attention to them. The attention is now directed, and with the result of what has happened here, we can spend some quality time on this matter. I hope those who wanted to offer amendments will do so. We can work into the night. I hope we can have some votes tonight. Senator DORGAN and Senator MURKOWSKI are anxious to move forward.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3900

Mr. SANDERS. Madam President, I wish to call up amendment No. 3900, and I ask for its immediate consideration.

The PRESIDING OFFICER. That is a pending amendment.

Mr. SANDERS. Madam President, this tripartisan amendment is being cosponsored by Senators CLINTON, OBAMA, SNOWE, COLLINS, LEAHY, SUNUNU, KENNEDY, GORDON SMITH, COLEMAN, KERRY, STABENOW, SCHUMER, LAUTENBERG, LINCOLN, KLOBUCHAR, MURRAY, CANTWELL, MENENDEZ, and DURBIN.

This amendment is simple and straightforward. At a time when home heating prices are going through the roof—and I think every Member who goes back to his or her State understands that the cost of home heating oil is soaring—people understand that in areas around this country, including the State of Vermont, the weather has been well below zero. What this amendment would do is provide real relief to millions of senior citizens on fixed incomes, low-income families with children, and people with disabilities.

Specifically, this amendment would provide $800 million in emergency funding for the Low-Income Home Energy Assistance Program—otherwise known as LIHEAP—a program that has won bipartisan support year after year here in Congress because people know it works.

Its goal is simply stated: to keep Americans from going cold in the wintertime. It has done this for years, and we have to appropriate more money to make sure we do that again this year. Specifically, $400 million of the $800 million would be distributed under the regular LIHEAP formula, while the other $400 million would be used under the emergency LIHEAP program.

This amendment has strong support not only from many Members of the Senate and Members of the House, but it has strong support from the National Governors Association, the National Conference of State Legislators, the AARP, the National Energy Assistance Directors Association, and many other groups.

Let me very briefly quote from a letter I received from the National Governors Association in support of this amendment.

Additional funding distributed equitably under this amendment will support critically needed heating and cooling assistance to millions of our most vulnerable, including the elderly, disabled and families who often have to choose between paying their heating or cooling bills and food, medicine and other essential needs.

According to the National Governors Association, this amendment will provide much needed energy assistance to at least 1 million American families—1 million. Others already receiving LIHEAP will receive more help due to the skyrocketing costs of home heating fuel.

Let me very briefly quote from a letter I recently received from the AARP. This is what the AARP says:

People should not have to choose between heating and eating. Older Americans who are more susceptible to hypothermia and heat stroke know the importance of heating and cooling their homes. They pay their utility bills and skimp on other necessities to get by. However, no one in America should be forced to skip their medications or cut back on essential nutritional needs in order to keep their heat on.

That is from the AARP.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, January 24, 2008.

Hon. BERNARD SANDERS
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: AARP applauds you for your continued efforts to increase funding for the Low Income Energy Assistance (LIHEAP) program. We thank you for offering an amendment to increase LIHEAP funding for FY 2008 by $800 million on S. 1200, the Indian Health Care Improvement Act Amendments of 2007. We are pleased to support your amendment.

People should not have to choose between heating and eating. Older Americans, who are more susceptible to hypothermia and heat stroke, know the importance of heating and cooling their homes; they pay their utility bills and skimp on other necessities to get by. However, no one in America should be forced to skip their medications or cut back on essential nutritional needs in order to keep their heat on.

LIHEAP helps the poorest of the poor. Nearly three out of four families receiving LIHEAP assistance have incomes of less than 100% of the federal poverty level ($16,600 for a family of three) and almost one in two have incomes less than 75% of the federal poverty level ($12,225 for a family of three).

LIHEAP is serving more households than ever before, but still cannot meet the need. Since 2002, an additional 1.5 million households are receiving LIHEAP assistance. At the same time, requests for LIHEAP assistance in 2006 soared to the highest level in 12 years.

Additional funding is needed now. High energy prices have not gone away and the weather has proven very unpredictable—additional funding is needed now and in the future to protect some of the most vulnerable populations in America. Should you have any questions regarding this request, please contact me or Timothy Gearan of our Federal Affairs staff.

Sincerely,

DAVID P. SLOANE,
Senior Managing Director, Government Relations and Advocacy.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, January 24, 2008.

Hon. BERNIE SANDERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: On behalf of the nation's governors, we write to express our support for the Sanders-Snowe amendment to add $800 million in emergency funding to the Low-Income Home Energy Assistance Program (LIHEAP) for FY 2008. We commend you and your colleagues for working in partnership to build bipartisan support for this proposal, and we believe the compromise of splitting this funding equitably between the LIHEAP base formula grant under the ''Tier II'' formula and the contingency fund is a step in the right direction.

Additional funding distributed equitably under this amendment will support critically needed heating and cooling assistance to millions of our most vulnerable, including the elderly, disabled, and families that often have to choose between paying their heating or cooling bills and food, medicine and other essential needs. With greater financial support, states will be better able to increase benefit levels in correspondence with rising energy costs, and to reach at least a million other federally-eligible households who currently do not receive assistance due to funding limitations.

The National Governors Association applauds the bipartisan efforts of you and your colleagues in reaching this compromise, and fully supports adding $800 million to FY 2008 to help LIHEAP respond to the current emergency energy situation.

Sincerely,

JAMES H. DOUGLAS,
Chair, Health and Human Services Committee.
JON S. CORZINE,
Vice Chair, Health and Human Services Committee.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, January 23, 2008.

DEAR SENATOR, I am writing on behalf of the National Conference of State Legislatures (NCSL) to strongly urge you to support the amendment offered by Senator Sanders and Senator Snowe that would add an additional $800 million to the Low Income Home Energy Assistance Program (LIHEAP) funding for FY 2008. The amendment would divide the additional funding equally between the formula and emergency contingency portions of the program.

LIHEAP is a highly efficient federal block grant program that helps our most vulnerable low-income households pay their heating bills in the winter and cooling bills in the summer. LIHEAP prioritizes at-risk households that shelter America's elderly, disabled, and very young and protects public health and safety by helping low-income families cover energy costs. By leveraging private dollars to supplement federal dollars, LIHEAP has nurtured positive, effective partnerships between the private sector and both federal and our state governments.

Millions of low-income families are burdened with the hardship of paying arrearage from both last winter's heating bills and summer's cooling bills, in addition to grappling with impending and actual shut-off situations. At a time of heightened need and with energy prices expected to continue to climb, state legislatures do not want our citizens choosing between paying an energy bill and putting food on the table, or purchasing necessary medications. For individuals and households facing these difficult choices, funding from LIHEAP makes an intrinsic difference in their ability to address such formidable challenges.

Since LIHEAP's inception, the number of eligible households has increased by 78 per cent, yet in FY 2006, states were only able to serve less than a quarter of the 24.4 million eligible households. An increase in funding for LIHEAP will help ensure that households in all regions are prepared to handle both the cold and warm, and in the past few years unpredictable, weather. NCSL believes that increased LIHEAP funding should be a top priority to help low-income families, senior citizens, and disabled individuals maintain economic stability while addressing ever-increasing energy prices.

We urge you to support the Sanders-Snowe LIHEAP amendment, and to continue the fight for full funding of LIHEAP.

Sincerely,

PETE HERSHBERGER,
Arizona Representative, Chair, NCSL Committee on Human Services & Welfare.

SOUTHERN GOVERNORS' ASSOCIATION,
Washington, DC, December 18, 2007.

STATEMENT ON ADDITIONAL FY 2008 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) FUNDING

Due to high and rising energy costs, efforts are underway in Congress to allocate an additional $800 million to the LIHEAP program for FY 2008. Senator Dole has worked with her colleagues from cold weather states on a compromise agreement that would equitably distribute these additional funds by splitting them equally between the LIHEAP base formula grant and the contingency fund. The additional $400 million in the base formula grant would be distributed by the LIHEAP ''tier II'' formula, which bases funding to states on the actual energy needs of low-income households, and therefore provides for equitable distribution to Southern slates.

Recognizing the increasing need for LIHEAP funds and the interest of the Congress in providing these funds, the Southern Governors' Association supports this compromise. SGA supported a similar compromise in FY 2006 when Congress made an additional $1 billion available for LIHEAP, split equally between the base formula grant and the contingency fund.

This compromise is an important step towards the long-term goal of a more equitable distribution of LIHEAP funding among all states. SGA urges Congress to move immediately to address equity as a priority as part of LIHEAP reauthorization.

Mr. SANDERS. I commend subcommittee chairman Senator HARKIN, subcommittee ranking member Senator SPECTER, Appropriations chairman Senator BYRD, and ranking member Senator COCHRAN for providing a total of about $2.6 billion in funding for LIHEAP in the Omnibus appropriations bill. Their job was a difficult one. There was not enough money available to do all that needed to be done, but they did their best for LIHEAP and for our critical needs.

Unfortunately, this $2.6 billion in funding for LIHEAP, while an 18-percent increase from last year, is still 23 percent below what was provided for LIHEAP just 2 years ago. That 23 percent reduction is not even adjusting for inflation. We are talking here about nominal dollars.

Two years ago, the price of heating oil was less than $2.50 a gallon; today, it is over $3.30 a gallon. In central Vermont, we have seen prices as high as $3.73 a gallon this winter for heating oil.

According to the National Energy Assistance Directors Association, due to insufficient funding, the average LIHEAP grant only pays for 18 percent of the total cost of heating a home with heating oil this winter, 21 percent of residential propane costs, 41 percent of natural gas costs, and 43 percent of electricity costs. What this means, in plain English, is that low-income families with children, senior citizens on

fixed incomes, and people with disabilities will have to make up the remaining cost out of their own pockets. The problem is that millions of those people simply do not have the money to make up the difference.

In addition, only 16 percent of eligible LIHEAP recipients currently receive assistance with their home heating bills, and 84 percent of eligible low-income families with children, seniors on fixed incomes, and people with disabilities do not receive any LIHEAP assistance whatsoever due to a lack of funding.

In my State of Vermont, it has been reported that outrageously high home heating costs are pushing families into homelessness. In fact, it is not uncommon for families with two working parents to receive help from homeless shelters in the State of Vermont because they cannot find anyplace else to live in winter.

But this is a national energy emergency certainly well beyond Vermont and well beyond the Northeast. On January 17, 1 day after the President released $450 million in emergency LIHEAP funding, the National Energy Assistance Directors Association testified in front of the Health, Education, Labor, and Pensions Committee field hearing chaired by Senator KENNEDY. Here is what the national energy directors reported on just a few of the States:

In Arkansas, the number of families receiving LIHEAP assistance is expected to be reduced by up to 20 percent from last year unless we get more funding.

The State of Arizona estimates they will have to cut the number of families receiving LIHEAP assistance by 10,000 as compared to last year.

In Delaware, the number of families receiving LIHEAP assistance will be reduced by up to 20 percent.

In Iowa, regular LIHEAP grants have been cut by 7 percent from last year.

In Maine, the average LIHEAP grant will only pay for about 2 to 3 weeks of home heating costs in most homes in that State.

The State of Kentucky could run out of LIHEAP funds in the near future.

In Massachusetts, the spike in energy costs means that the purchasing cost for LIHEAP has declined by 39 percent since 2006.

The State of Minnesota could run out of LIHEAP funding as well.

On and on it goes. In New York State, in Ohio, in Rhode Island, in Texas, in Washington, in State after State the simple arithmetic works out that if the cost of heating fuel is soaring, in order to provide the same benefits to the same number of people, we need to significantly increase our funding for LIHEAP, and we are not doing that. That is what this amendment is about.

There is a lot of discussion on this floor about emergencies. This is an emergency. There is a lot of discussion on this floor about moral values. This is a moral issue. In the United States of America, the wealthiest Nation in the history of the world, millions of senior citizens and low-income parents with kids should not be forced to worry about whether their homes will be warm this winter. People should not have to make the choice between keeping warm or paying for other basic necessities of life. This is an emergency situation. This is a moral situation.

I wish to thank all of the cosponsors who have come on board this legislation. I ask my colleagues to strongly support this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Mr. SANDERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR) The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TESTER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TESTER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4020 TO AMENDMENT NO. 3899

Mr. TESTER. I send amendment No. 4020 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. TESTER] proposes an amendment numbered 4020 to amendment No. 3899.

Mr. TESTER. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of Congress regarding law enforcement and methamphetamine issues in Indian country)

On page 336, between lines 2 and 3, insert the following:

"SEC. 815. SENSE OF CONGRESS REGARDING LAW ENFORCEMENT AND METHAMPHETAMINE ISSUES IN INDIAN COUNTRY.

''It is the sense of Congress that Congress encourages State, local, and Indian tribal law enforcement agencies to enter into memoranda of agreement between and among those agencies for purposes of streamlining law enforcement activities and maximizing the use of limited resources—

''(1) to improve law enforcement services provided to Indian tribal communities; and

''(2) to increase the effectiveness of measures to address problems relating to methamphetamine use in Indian Country (as defined in section 1151 of title 18, United States Code).

Mr. TESTER. Mr. President, this amendment is designed to encourage law enforcement in Indian country—at the local, State, and Federal level—to work together to combat methamphetamine issues. It encourages local, State, and Federal police to enter into memorandums of understanding with tribal law enforcement to pool resources to fight meth addiction. It does not require it; it just encourages it. All four law enforcement entities should collaborate to ensure that all can be done to beat back the meth problems that plague Indian country.

Methamphetamine abuse is an American problem. It infiltrates and devastates communities across the country. Unfortunately, it is a problem that disproportionately impacts tribal communities. American Indians now experience the highest meth usage rates of any ethnic group.

I will give one example. American Indians use methamphetamines 17 times higher than African Americans. The list goes on and on. They are the highest meth usage ethnic group. Beyond the high rate of meth use among American Indians, Alaska natives, and native Hawaiians nationwide, individual Indian tries have been struggling with the impact of meth use on their communities. For example, on the Northern Cheyenne reservation in Montana in 2005, 16 out of 64 babies, or 25 percent, were born to meth-addicted mothers. This number has increased in 2006. We must do everything possible to address this epidemic and protect our children from this scourge of modern society.

In hearings before the Indian Affairs Committee, we heard testimony about Mexican drug cartels targeting rural reservations. They are targeting these vulnerable areas both for the sale of meth and for distribution hubs. Drug smugglers target Indian communities for several reasons: the complex nature of their criminal jurisdiction on Indian reservations and because tribal police forces have been historically underfunded and understaffed. This is a big problem. It is a huge problem in Indian country. We need to encourage Indian tribes, Federal police, local police to sign memorandums of understanding by each of these four different entities—Indian government, State government, local government, and Federal law enforcement agencies. These memorandums will identify specific law enforcement activity and establish exactly what each agency is responsible for.

The feedback we hear is that the memorandums that are in place are working and that the agencies participating in these agreements report a significant increase in communication and a decrease in traffic. This amendment simply asks law enforcement and agencies at every level to work together to beat the meth problem and improve quality of life in Indian country.

By signing memorandums of understanding, our communities will be better prepared to tackle this meth problem. At the same time we foster Indian self-determination and strengthen government-to-government relationships. The amendment will improve Indian

country and, in effect, every community in this country. I encourage my colleagues to join me in voting for this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, for the information of colleagues, with the agreement of the minority, I ask unanimous consent that we have the vote scheduled at 5:25 and that we have consent that there not be other amendments in order prior to the vote on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, the issue of methamphetamine on Indian reservations is a dilemma. It is devastating scourge to Indian reservations. The Senator from Montana asks for cooperation of law enforcement jurisdictions to form opportunities to work together. It makes a lot of sense. It is not a mandate. He is not requiring it. But he is shining a spotlight on one of the significant health problems on Indian reservations. If I spent the time to talk to you about the testimony we received in committee hearings about what methamphetamine addiction has done, it is almost unbelievable. I won't describe that in detail here.

I support the sense-of-the-Senate resolution. It makes a great deal of sense.

My colleague from Alaska will no doubt want to give her thoughts. I believe the Senator from Montana will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I rise in support of the amendment and of the Senator from Montana in this effort. We are using a pretty devastating word here—scourge—but that is what we are talking about when we talk about methamphetamine use as it has come into this country and, more particularly, how it has devastated the American Indian and the Alaska native populations. What more can we be doing? What else can we do to shine the spotlight, to activate those who need to be activated in how do we make a difference? Some would suggest a sense of the Senate that encourages this action entering into a memorandum of understanding between agencies, they should be doing that anyway. They should be. They should be doing it. They should be working to streamline. They should be working to better coordinate. They should be making that difference. Let's encourage them even further by a statement such as the Senator from Montana has suggested. We need to do far more when it comes to meth use and abuse. We need to do far more when it comes to drug abuse in general. I appreciate the focus and attention to this particularly deadly scourge, that of methamphetamine. I will stand with the Senator from Montana and support the amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. I thank the chairman of the committee as well as the ranking member for their support. Anything we can do to help limit the impact of methamphetamine in Indian country and throughout society is a step in the right direction.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 4020. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced —- yeas 95, nays 0, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—95

Akaka	Dole	Menendez
Alexander	Domenici	Mikulski
Allard	Dorgan	Murkowski
Barrasso	Durbin	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feingold	Pryor
Biden	Feinstein	Reed
Bingaman	Grassley	Reid
Bond	Gregg	Roberts
Boxer	Hagel	Rockefeller
Brown	Harkin	Salazar
Brownback	Hatch	Sanders
Bunning	Inhofe	Schumer
Burr	Inouye	Sessions
Byrd	Isakson	Shelby
Cantwell	Johnson	Smith
Cardin	Kennedy	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Stevens
Coburn	Kyl	Sununu
Cochran	Landrieu	Tester
Coleman	Lautenberg	Thune
Collins	Leahy	Vitter
Conrad	Levin	Voinovich
Corker	Lieberman	Warner
Cornyn	Lincoln	Webb
Craig	Lugar	Whitehouse
Crapo	Martinez	Wicker
DeMint	McCain	Wyden
Dodd	McConnell	

NOT VOTING—5

Clinton	Hutchison	Obama
Graham	McCaskill	

The amendment (No. 4020) was agreed to.

Mr. TESTER. Madam President, I move to reconsider the vote.

Mrs. MURRAY. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 4022 TO AMENDMENT NO. 3900

Mr. GREGG. Madam President, I send an amendment to the desk.

Madam President, is the Sanders amendment pending?

The PRESIDING OFFICER. The Senator's amendment is pending. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 4022 to amendment No. 3900.

Mr. GREGG. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for the Low-Income Home Energy Assistance Program in a fiscally responsible manner)

Strike all after line 1 and insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $400,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $400,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of that Act (42 U.S.C. 8621(e)).

(b) RESCISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each discretionary amount provided by the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), excluding the amounts made available for the purposes described in paragraph (2), is reduced by the pro rata percentage required to reduce the total amount provided by that Act by $800,000,000.

(2) EXCEPTED PURPOSES.—The reduction under paragraph (1) shall not apply to any discretionary amount made available in the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), for purposes of—

(A) the Department of Defense; or

(B) the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

Mr. GREGG. Madam President, this amendment is simply an attempt to recognize the need for expanding the LIHEAP program in the face of the dramatic increase in oil prices, but also recognizing that in extending the LIHEAP program for today, we shouldn't send the heating bill for that to our children to pay tomorrow, which is exactly how the Sanders amendment works. It is essentially borrowing money today. That is obviously not good policy.

Clearly, if we have extra heating bills in this country today which should be paid for—and we do—the LIHEAP program does need to be increased because the cost of heating oil has gone up so significantly. We should pay for those costs today. So this amendment takes the Sanders language and pays for it. The Sanders language represents about an $800,000 increase in the LIHEAP program. This would be about a two-tenths-of-1-percent cut across the board in nondefense appropriations in order to pay for that amendment.

It is very simple. It is obviously an attempt to bring some fiscal discipline

but, more importantly, to reflect the fact that if these heating bills are going to be paid for—and they should be paid for—we shouldn't borrow the money to do it. We shouldn't ask our children 10 years, 15 years from now to pay those heating bills, with interest, when the bills are incurred today.

So that is all it does. I appreciate the courtesy of the Senate in allowing me to proceed to offer this amendment. I especially appreciate the courtesy of the Senator from Wyoming.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GREGG. Madam President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 3898 TO AMENDMENT NO. 3899

Mr. BARRASSO. Madam President, I ask unanimous consent that the pending amendment be temporarily set aside, and I call up amendment No. 3898.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO] proposes an amendment numbered 3898 to amendment No. 3899.

Mr. BARRASSO. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Comptroller General to report on the effectiveness of coordination of health care services provided to Indians using Federal, State, local, and tribal funds)

The Indian Health Care Improvement Act (as amended by section 101(a)) is amended—

(1) by redesignating sections 816 and 817 as sections 817 and 818, respectively; and

(2) by inserting after section 815 the following:

''SEC. 816. GAO REPORT ON COORDINATION OF SERVICES.

''(a) STUDY AND EVALUATION.—The Comptroller General of the United States shall conduct a study, and evaluate the effectiveness, of coordination of health care services provided to Indians—

''(1) through Medicare, Medicaid, or SCHIP;

''(2) by the Service; or

''(3) using funds provided by—

''(A) State or local governments; or

''(B) Indian Tribes.

''(b) REPORT.—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2007, the Comptroller General shall submit to Congress a report—

''(1) describing the results of the evaluation under subsection (a); and

''(2) containing recommendations of the Comptroller General regarding measures to support and increase coordination of the provision of health care services to Indians as described in subsection (a).''.

Mr. BARRASSO. Madam President, as a physician I have worked for over two decades to help people stay healthy and to help keep down the costs of their medical care. But health issues go way beyond that of a twisted knee or a painful shoulder.

In my practice I have seen firsthand the obstacles that families face to obtain medical care. Rural hospitals and rural providers must overcome significant challenges to deliver high-quality care in an environment with limited resources.

Our unique circumstances require us to work together to share resources and to develop networks. I think everyone can agree that these same principles are critical to support and modernize the Indian health care delivery system.

The Wind River Reservation, located near Riverton, WY, is the home of 10,415 members of the Eastern Shoshone and Northern Arapaho Tribes. It is the third largest reservation in the United States, covering more than 2.2 million acres.

I recently visited with my friends on the Wind River Reservation. The tribal leaders told me of the hopes they have for their families, their communities, for Wyoming, and for our great Nation. We spent much of the time discussing health care.

Individuals living on the Wind River Reservation have worse than average rates for infant mortality, for suicide, for substance abuse, for unintentional injuries, for lung cancer, for heart disease, and for diabetes. They shared with me how difficult it can be for them to recruit and retain health professionals, to respond effectively to cultural barriers, and to help individuals make better lifestyle changes and choices.

We talked about reauthorization of the Indian Health Care Improvement Act, and that is the bill that is now in front of the Senate. This legislation is important. It is important to give Native Americans the quality care they deserve, but it is also important to support critical health facilities that can help drive economic development and job creation.

When Congress debates improving the Indian health care system, the first instinct is to allocate more financial resources or to create new initiatives. Now, this stems from a strong desire from all of us to help. Yet this same helping hand can produce overlapping government programs, and these will be overlapping programs that are all trying to achieve the same goals.

For example, today, neither the government nor Indian advocacy groups can explain exactly how funds are used to coordinate medical services. The Indian Health Service is not like other Federal health care programs. Congress has only limited access to the research data that is needed to improve Indian health care. If we do not know where the resources are being spent, if we do not know the number of programs dedicated to provide various health care services, and if we do not know how health care services are coordinated, then how can we be certain that we are maximizing our ability to help Native Americans and Alaska Natives?

That is why I have offered amendment No. 3898 today. This amendment requires the Government Accountability Office—the GAO—to submit a report to Congress. The report would lay out how these various government and local programs coordinate health care services in Indian country.

The GAO study would focus on programs such as Medicare, Medicaid, children's health insurance programs, and the Indian Health Service. It also would require the GAO to research how these Federal programs interact with efforts by State, local, and tribal groups to deliver the essential health care services that are so vital to these citizens. By identifying any overlaps in spending, as well as pinpointing the service gaps, then we can develop reasonable, commonsense solutions that streamline and improve Indian health care. This way, we can target Federal funds to programs that are making the greatest impact. Then we can focus on additional areas where Native Americans and Alaska Natives need our support and need more support.

The GAO is well known as the investigative arm of Congress, and it is also known as the congressional watchdog. GAO helps Congress improve the Federal Government's performance and ensures programs meet strict accountability standards.

Now, all of that they do for the benefit of the American people. We rely on their expert recommendations, which are unbiased and are set up to make sound policy decisions. This oversight shows us ways to make government more efficient, more effective, ethical, and equitable. It uncovers what is working and what is not working, and it offers valuable advice on how to fix it. But, most importantly, this oversight helps us plan for the future.

Over the years, the GAO has submitted a few reports dealing with specific Indian health issues. Do any of my colleagues recall the last time the GAO completed a comprehensive Indian health care report?

I am certainly unaware of any recent efforts in this area. How many GAO reports have been released regarding Medicare, Medicaid, and the different health professional programs? I think we all know the answer.

We owe it to Native Americans, to Alaska Natives, and to the American taxpayers to adopt this amendment.

Madam President, I wish to make sure that people of the Wind River Reservation in Wyoming, and all Native American people across America, have equal access to quality, affordable medical care.

The Indian Affairs Committee, of which I am a member, will continue focusing on this issue long after this Indian Health Care Improvement Act is reauthorized.

It is essential that our committee have the information it needs to evaluate the current delivery system—exposing barriers that prevent collaboration, that prevent networking, that prevent innovation, and that prevent the sharing of resources.

It is my hope that this GAO report will help all policymakers begin to understand where the delivery system is working, where it is not, and offer the recommendations that are so important and so needed to streamline and to modernize it.

I encourage my colleagues to support the amendment.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF DR. JAMES ALBERT YOUNG

Mr. REID. Madam President, today I want to recognize and honor an individual who has committed much of his life to the preservation of Western rangeland and its ecosystems. Dr. James Albert Young retired on January 3, 2008, from the U.S. Department of Agriculture Agricultural Research Service after 33 years of dedicated work on issues important to the environmental health of the Great Basin.

The Great Basin is North America's largest desert, encompassing 135 million acres of land between the Rocky and Sierra Nevada Mountains in western North America. It includes parts of Nevada, Utah, Idaho, Oregon, and California. Land in the Great Basin is arid, receiving less than 12 inches of rain annually. Today, population growth, wildfires, and invasive species are reducing the quality of native rangelands at an accelerating rate. Recent studies by the U.S. Geological Survey and others predict that climate change could well be expected to accelerate these changes and associated impacts. Dr. Young's professional life was focused on understanding the specific challenges facing the Great Basin, finding ways to reverse the trends that threaten its environmental health, and educating people about the uniqueness of this beautiful land.

In 1965, Dr. Young started his career with USDA's Agricultural Research Service as a range scientist for the range and pasture unit in Reno, NV. He served as research leader of that unit from 1986 to 1998 and was known by many as the ''Encyclopedia of Western Rangelands.'' Over the years his expertise and commitment to rangeland issues was recognized through various awards, such as United States Department of Agriculture Scientist of the Year, Weed Science Society of America Award of Excellence, Society for Range Management W. R. Chapline Research Award, Outstanding Achievement Award, and Fellow Award, as well as the Society for Range Management Nevada Section Researcher of the Year Award.

The State of Nevada awarded Dr. Young with the very first Nevada Weed Management Award, which they named the ''James A. Young Award,'' for his tireless work on invasive weed management issues. Dr. Young has authored and co-authored over 700 scientific articles, including many books. His books have received national recognition, some of which include ''Collecting, Processing, and Germinating Seeds of Wildland Plants;'' ''Endless Tracks in the Woods''; ''Purshia: The Wild and Bitter Roses''; and ''Cattle in the Cold Desert.'' Dr. Young recently finished a book, ''Cheatgrass: Fire and Forage on the Range,'' which is an illustration of the breadth of knowledge that he has on the most popular weed in the Intermountain West. It is often stated that Dr. Young has probably forgotten more information on the ecology of Western rangelands that most people in resource management will ever learn.

Early in Dr. Young's career he developed the hypothesis that the nature and structure of a wildland plant community is largely controlled by the process that eliminated the previous plant community that occupied the site. Now known as the stand renewal process, this hypothesis is one of his ecological trademarks.

Dr. Young was also an outstanding educator. Over the years, he introduced dozens of high school and college students to the field of range science, some of whom became Area Directors for the Agricultural Research Service. His continued interest in educating natural resource specialists, as well as the general public, on science based management of Natural Resources has been a tremendous achievement over his career.

We owe a great debt to individuals like Dr. Young who, make their life's work protecting our natural world. Thank you, Dr. Young, for all you have done.

GOLD MEDAL FOR AUNG SAN SUU KYI

Mr. MCCONNEL. Madam President, I am proud once again to join my friend and colleague, Senator FEINSTEIN, on a matter involving the promotion of freedom and reconciliation in Burma. Today, we join together in support of awarding the Congressional Gold Medal to Burma's Aung San Suu Kyi.

When first established in 1776, the Congressional Gold Medal was given to military leaders for their achievements in battle. Since that time, it has become America's highest civilian honor, having been bestowed upon great friends of freedom such as Winston Churchill, Nelson Mandela, and Martin Luther King, Jr. Granting Suu Kyi the Gold Medal would continue that same tradition of honoring heroism in the defense of liberty.

For more than 20 years, Aung San Suu Kyi's support for justice and democracy has placed her at odds with the tyranny and oppression of the Burmese junta. She and her supporters have combated the brutality of the junta with peaceful protest and resistance. She has chosen dignity as her weapon, and she has found allies in democracy-loving people around the world to aid her in her struggle.

Even as I speak, Suu Kyi's nonviolent fight for democracy continues. Just last week, the Burmese junta announced that it would hold a general election in 2010. However, under the regime's sham plan for democracy, it would not even permit the country's foremost democracy activist, Suu Kyi, to hold public office.

The military junta is fooling no one with its false promises of reform, least of all, Suu Kyi and her allies. After all, she remains under house arrest, as she has for 12 of the last 18 years. That said, as the regime continues to suppress the voices of freedom and peace, it can be sure that there will be those of us who will stand with Suu Kyi and the people of Burma as they continue their struggle for democracy and justice.

By awarding Suu Kyi the Congressional Gold Medal, we are letting the Burmese military junta and the world know that the people of America will continue to speak out in favor of meaningful reform in her country.

It is particularly fitting that today, February 13 is the birthday of Suu Kyi's father. Aung San helped lead the struggle for Burmese independence after World War II, but was assassinated just before its achievement. What could be a more fitting way to honor the memory of a man who fought for freedom than by rewarding his noble daughter for continuing his legacy? In so doing, we reward them both with the promise that the United States will remain committed to the same cause, that of a peaceful and free Burma.

FISA AMENDMENTS ACT

Mr. REED. Madam President, we have had a lengthy debate, and in the end I decided to vote against final passage of S. 2248, the FISA Amendments Act of 2007.

First, I commend Senators ROCKEFELLER and BOND for recognizing immediately that the Protect America

Act, passed in August, needed modifications. S. 2248 does improve FISA procedures. The bill increases the role of the FISA Court with respect to targeting. It mandates FISA Court review and approval of the minimization procedures governing the protection of identities and nonpublic information about U.S. persons. This bill also provides statutory rules for the use of information acquired under it.

However, when S. 2248 came before the full Senate for debate, I, and many of my colleagues, believed that additional protections and clarifications could and should be added. But it soon became clear that all such measures would be defeated.

I was particularly disappointed that Senator FEINSTEIN's amendment on exclusivity did not pass. I believe it is very important to reiterate that FISA is the exclusive means for conducting surveillance on Americans for foreign intelligence purposes. I would have thought that every member of the Senate would have been interested in clarifying what the administration was authorized to do under the laws that Congress passes rather than allowing the administration to boldly and erroneously assert authorities from the Authorization for the Use of Military Force against al-Qaida and the Taliban. But unfortunately I was wrong.

I also admit that I had serious concerns about granting retroactive immunity to telecommunications companies for actions they may or may not have taken in response to administration requests that may or may not have been legal. One of my concerns is regarding the accessibility of information. First, my colleagues on the Judiciary Committee and Intelligence Committee were allowed to read the necessary documents only after extensive negotiations with the administration. I, and the rest of my Senate colleagues who are not on those committees, were denied access to those documents. In addition, the telecommunications companies who have been named in several lawsuits have been prohibited by the Government from providing any information regarding this issue to the courts, to the plaintiffs, to Members of Congress, or to the public. Yet we were asked to blindly vote for retroactive immunity, which is something I simply could not do. Therefore I supported Senator DODD's amendment to strike immunity, but it did not pass.

I was then willing to consider some compromise approaches, such as the Specter and Whitehouse amendment, which would have substituted the Government for the telecommunications companies in civil suits, or Senator FEINSTEIN's amendment, which would have provided for the FISA Court's review of the telecommunications companies to determine if immunity should apply. However, neither of these amendments was able to secure enough votes to pass. At the end of day, retroactive immunity remained in the bill, setting what I believe could be a dangerous precedent.

S. 2248 is indeed an improvement over the Protect America Act. But in my judgment, it still did not provide enough protections to American citizens and did not provide ample justification for retroactive immunity for telecommunications companies. I therefore voted to oppose the bill. I hope to continue to work with my colleagues to pass the modifications I believe are needed.

Mr. CARDIN. Madam President, I rise today in opposition to final passage of S. 2248, the FISA, Foreign Intelligence Surveillance Act, Amendments Act. I am disappointed that the Senate has failed to adequately improve the Protect America Act, PAA, which Congress enacted in August 2007 and which I voted against.

The President should have the necessary authority to track terrorists, intercept their communications, and disrupt their plots. Congress should make needed changes to FISA to account for changes in technology and rulings from the FISA Court involving purely international communications that pass through telecommunications routes in the United States. While we have a solemn obligation to protect the American people, we must simultaneously uphold the Constitution and protect our civil liberties.

After learning about executive branch abuses in the 1960s and 1970s, Congress passed very specific laws which authorize electronic surveillance. Congress has regularly updated these measures over the years to provide the executive branch the tools it needs to investigate terrorists, while preserving essential oversight mechanisms for the courts and the Congress. FISA requires the Government to seek an order or warrant from the FISA Court before conducting electronic surveillance that may involve U.S. persons. The act also provides for postsurveillance notice to the FISA Court by the Attorney General in an emergency.

I am very concerned that the FISA law was disregarded by the administration and want to ensure that we put an end to this type of abuse. We are a nation of laws, and no one is above the law, including the President and Attorney General. Congress has the right to know the extent of the warrantless wiretapping program and how it was initiated and changed over the years by this administration.

I voted in favor of the Judiciary Committee substitute to the Intelligence Committee bill. The Judiciary Committee version strengthened congressional and judicial review, including increasing the oversight by the FISA Court of the administration's wiretapping program. I am therefore very disappointed that the Senate rejected the Judiciary Committee substitute and that the Senate has rejected numerous amendments—including an amendment that I had offered—to improve this legislation.

I am hopeful that the House will make much needed improvements in this legislation during conference and that I can support balanced legislation that gives the intelligence community the tools it needs to track terrorists and prevent attacks, while maintaining safeguards against the abuse of power by the executive branch. I will continue to work to ensure the safety and security of the American people, as well as their civil liberties. Domestic eavesdropping raises serious and fundamental questions regarding the conduct of the war against terrorism, the privacy rights of Americans, and the separation of powers between the legislative, executive, and judicial branches. Congress must continue to work to strike the right balance, and we have not achieved that goal today.

Mr. KERRY. Madam President, I believe the FISA bill that passed the Senate yesterday could have and should have been a better bill. There is no charitable explanation for why the U.S. Senate failed to pass a bill that demonstrates at once that we can protect our national security and protect the Constitution of the United States and the rights of law-abiding American citizens at the same time.

September 11 was a wakeup call for millions about a global struggle against extremism—and the need to modernize our Government to win that struggle. September 11 also began a debate in our country over how we can win the struggle against extremists without losing sight of who we are and what we value as Americans. Former Supreme Court Justice Sandra Day O'Connor described the challenge best:

> We must preserve our commitment at home to the principles for which we fight abroad.

Congress has a duty to protect the American people—and to protect the Constitution. That is the oath we take. It is a solemn pledge. That is why this debate, and this vote in the Senate is so disappointing: This latest FISA law does not live up to the words we speak when we take that oath in the Senate. Instead, rather than produce a bill that made us stronger in the fight against extremism, colleagues on the other side of the aisle summarily rejected every effort this week to give the President of the United States the added flexibility needed to hunt down and capture terrorists while protecting the rights of law-abiding Americans.

More than 6 years after 9/11, we are still searching to strike this proper balance. Once again, in the latest rushed effort in the face of partisan fear-mongering, the world's greatest deliberate body missed an opportunity to get it right.

Make no mistake, today's bill is a marked improvement over the Protect America Act. But this issue is far too critical to settle for half-measures and insufficient improvements. This bill doesn't do enough to protect independent judicial oversight by the Foreign Intelligence Surveillance Court,

FISC, of sweeping Government powers. It doesn't provide the FISC the authority to assess the Government's ongoing compliance with its wiretapping procedures, and doesn't set limits on the way the Government uses information acquired about Americans.

Instead, this bill leaves Americans vulnerable to continued overreaching by the executive branch. It allows the President to rely on other statutory authorities to circumvent the will of the people and conduct warrantless foreign intelligence surveillance, permits limitless ''fishing expeditions''—so-called bulk collection of all communications between the United States and overseas—and lets the government eavesdrop on Americans under the guise of targeting foreigners—what is known as ''reverse targeting.'' If we have learned anything from over 7 years of the Bush administration, it is that we cannot simply hand them a blank check and trust that they will not abuse it.

The Judiciary Committee's FISA bill recognized the need for this type of robust judicial and congressional oversight in the face of ever-expanding Executive power. It systematically sought to create all of the aforementioned safeguards on liberty, while making sure to give the President the expanded set of tools required to fight terrorism in the digital age. That is the bill we should have passed.

Most importantly, unlike the FISA bill that passed the Senate yesterday, the Judiciary Committee's version did not grant amnesty to telecommunications providers that were complicit in the Administration's warrantless spying program. The administration may well be deliberately stonewalling to avoid a judgment day in court. Yet, today, the Senate rewarded the President's obstructionism, providing him cover to seek political security under the guise of national security. That is wrong. It is also a slap in the face to telecommunications providers like QWEST, which in the difficult days after 9/11, courageously refused to aid the administration's warrantless wiretapping efforts and questioned their legality.

Americans, who are deeply concerned about the secrecy and abuses of power that have marked this administration's years in office, and who are tired of learning information after the fact in our newspapers when whistleblowers leak it, deserve much better. This bill shreds the bipartisan principle that Americans should have their day in court—that accountability should be preserved to adjudicate competing claims and at last shed light on the administration's secret surveillance program. It is for these reasons, after all, that Senator SPECTER, the ranking member of the Judiciary Committee, refused to grant blanket amnesty and, as he put it, ''undercut[] a major avenue of redress.'' If these lawsuits are shielded by Congress, the courts may never rule on whether the administration's surveillance activities were lawful.

An impartial court of law insulated from political pressure is the most appropriate setting in which to receive a fair hearing. That is a far cry from the U.S. Senate wiping the slate clean for the Bush administration. Everyone agrees, if the telecoms followed the law, they should get immunity, as Congress explicitly provided under the original FISA law. But our courts should decide, not Congress—and that is a matter of principle protected in the House's FISA bill.

There is today, as divided as we are, very much that we agree upon: We all want to prevent terrorist attacks, we all want to gather effectively as much intelligence as possible, and we all want to bring those who would attack us to justice before they strike us. But we undermine—not strengthen—our cause when we subvert our Constitution, throw away our system of checks and balances, and disregard human dignity. We also accept a false choice between security and liberty. There is no need to. That is why, yesterday, I stood up for the belief that the rule of law isn't just compatible with—but essential to—keeping our homeland safe. We owe Americans a better FISA bill.

EAST TIMOR

Mr. FEINGOLD. Madam President, I would like to take a moment to note the violent attacks which took place earlier this week on the President and Prime Minster of East Timor, or Timor-Leste as it is also called. The people of East Timor have experienced far too much violence for such a small nation and it is time, once again, for the world to renounce violence as a means to achieving any political agenda. I condemn such acts and urge all parties to seek legitimate peaceful—and political—means to ensure their voices are heard.

Earlier this week, President Jose Ramos Horta was shot by rebel soldiers. This band of rebels, led by the infamous Alfredo Reinado, attacked President Ramos-Horta outside his house. As a longstanding advocate of East Timor's self-determination, I have met President Ramos-Horta and am very troubled by this attempt to take his life and to undermine East Timorese stability and independence. President Ramos Horta is a Nobel Peace Prize winner and is known for his leadership of a nonviolent struggle against the Indonesian occupation. It is precisely because of these honorable principles that he has espoused, in the face of repeated violence, that I am doubly concerned by this recent attack. I am also worried that this violent act could affect the stability and progress of this young country and am pleased that Australia has agreed to send additional soldiers and police officers to address any unrest that might occur in the aftermath of this heinous attack.

I have followed East Timor's ongoing transformation very closely since the disastrous crisis in the late 1990s and have been so pleased to see its successful transition from Indonesian occupation to a U.N. administration to an independent nation over the years. Certainly East Timor's path forward has not been free from challenges but it has moved consistently in the right direction. I have long supported a robust U.N. peacekeeping mission there, I pressed the administration to take a hard line with the Indonesia military as a result, in part, of its actions in East Timor, and I spoke out against the renewed unrest in 2006 which led to a collapse of many key institutions and once again required the international community to step in and play a key role in security reform.

We cannot overlook the significance of these attacks in East Timor as the country stands to chart a course for emerging democracies around the world. A stable East Timor sends a signal that the international community can work collaboratively and consistently for the betterment of a nation—and a people. East Timor has received significant multilateral support over the years and if it fails to develop into a fully functioning and stable democracy, we will need to reexamine what kinds of commitment our nation truly makes to young democracies striving to succeed. For these reasons, I hope this incident is little more than a blip on the radar for Ramos-Horta and that his recovery is a speedy one so he can return to the helm of leadership and finish his term as President.

CELEBRATING OREGON'S BLACK HISTORY

Mr. SMITH. Madam President, each Congress I rise to honor February as Black History Month. Each February since 1926, we have recognized the contributions of Black Americans to the history of our Nation. This month I want to celebrate some of the contributions made by Black Americans in my home State of Oregon.

The story of Abner Hunt Francis, a merchant from Buffalo, NY, is particularly moving. Francis, a man who gravitated to leadership, co-founded the Buffalo City Anti-Slavery Society in 1838 and organized local colored conventions throughout the 1830s and '40s in his native state. In 1851 he left the East Coast for the City of Portland in the Oregon Territory, expecting to encounter freer country on the American frontier.

Francis was disappointed to discover that despite the progressive attitude of its settlers, racist laws still encumbered Oregon Territory. It was not long after opening a boardinghouse that Francis's brother, O. H. Francis, was arrested. O. H. was detained in Portland on the grounds that men and women of color were not legally allowed in Oregon Territory, pursuant to an existing ''exclusion'' law. The case went immediately before a lower court, where it was decided that O. H. would

have 6 months to vacate the territory. Unsatisfied that the judge had given O. H. ample time to leave, the complainant in the case appealed and the matter was elevated to the Territorial Supreme Court.

Abner Francis was incensed by the fact that such a law existed in the so-called free territory of Oregon. He described the plight of his brother and detailed the case made before the Supreme Court in a letter to his friend and fellow civil rights advocate, Frederick Douglass. When Judge Orville Pratt ruled against the defense, giving O. H. 4 months to leave the territory, Abner engaged Col. William M. King, then the representative of Portland's district in the State legislature. Representative KING agreed to try to repeal the law outright. The law was not repealed until 1926, but a group of outraged Portlanders, led by Abner, successfully petitioned for an exemption for O. H.

Douglass wasted no time in publishing Francis's letter. Many abolitionists and civil rights leaders were learning of racial injustices in the undeveloped West for the first time when they read of O. H. Francis's case.

Outspoken men and women like Abner Francis forced Oregonians and the Nation to acknowledge that the bitter struggle for equality was to be fought not just in the East, but also in the farthest reaches of the American West. Francis must be recognized as one of the first vocal advocates for racial equality in Oregon. Today, I honor Abner Hunt Francis for his contributions.

VOTE EXPLANATION

Mrs. MCCASKILL. Madam President, today I attended the funeral of Connie Karr, my neighbor and city councilwoman in Kirkwood, MO, which is my home. Connie Karr died in a tragic attack on the Town Hall of Kirkwood. I was therefore unable to be present for two rollcall votes taken by the Senate. Had I been, I would have voted aye on the motion to invoke cloture on the conference report to accompany H.R. 2082, the Intelligence Authorization Act for fiscal year 2008. I would have further voted aye on final passage of H.R. 2082.

ADDITIONAL STATEMENTS

RECOGNIZING DEBRA BROWN STEINBERG

● Mr. COLEMAN. Madam President, today I want to recognize the accomplishments of Ms. Debra Brown Steinberg. Last year, Ms. Steinberg received the Ellis Island Medal of Honor from the National Ethnic Coalition of Organizations for her services in representing the families of noncitizen victims of the September 11, 2001, terrorist attacks on the World Trade Center. With this award, she joins past notable recipients such as former Presidents Gerald Ford, George H.W. Bush, and Bill Clinton.

Ms. Steinberg has worked tirelessly to help the families of 9/11 victims. She played a leading role in the creation of the New York Lawyers for the Public Interest 9/11 Project shortly after the attacks. Ms. Steinberg was a driving force in the creation of the 9/11 Victims Compensation Fund, which provided a total of $7 billion to the families of those killed in the attacks, and she drafted a substantial portion of the New York 9/11 Victims and Families Relief Act. Over the 6 years following that tragic day, her selfless service to these families has never ceased.

The Ellis Island Medal of Honor is only the latest in a series of honors that have been appropriately awarded to Ms. Steinberg. In 2006, she received the American Bar Association's Pro Bono Publico award for her many extraordinary efforts on behalf of the families of 9/11 victims, which she performed without compensation. Her public services have also been honored twice by the U.S. House of Representatives, in a New York State Senate resolution, and by New York City mayor Michael Bloomberg. Ms. Steinberg's work was also featured in the documentary film entitled ''The Legal Community's Response to September 11th'' and in a similar study entitled ''Public Service in a Time of Crisis.''

Ms. Steinberg's service should serve as an inspiration not only her peers in the legal profession but to all Americans.●

RECOGNIZING THE GARFIELD-PALOUSE HIGH SCHOOL

● Mrs. MURRAY. Madam. President, today I recognize the Garfield-Palouse High School Junior Engineering Technical Society, JETS, design team from Washington State. These outstanding young students and their teacher, Mr. Jim Stewart, are finalists in the National Engineering and Design Challenge.

The Garfield-Palouse JETS team researched and built a prototype paraplegic agricultural lift to meet this year's National Engineering and Design Challenge to design a device to assist disabled people in the workplace. Their work to build this lift was inspired by their desire to help a classmate and will allow access to agriculture equipment for individuals with a disability. Agriculture is an important part of Washington State's economy, and I am pleased these students worked on a project that highlights a local industry and will help individuals with disabilities attain greater independence.

The JETS program at Garfield-Palouse High School is an integral tool to empower students to take a deeper look at understanding and addressing problems that many individuals with disabilities face.

I would like to commend Colby Cocking, Beau Fisher, Spencer Gray, Anna Iverson, Travis Mallett, Sean Neal, Miles Pfaff, Aaron Rager, Katie Redman, Steven Tronsen, and Jim Stewart for their accomplishments. Washington State is fortunate to have a talented and motivated team that placed in the top 5 out of over 100 entries in this unique and rewarding competition. I am proud of the dedication and hard work of these students from Washington State. I wish the team well in the final round of competitions.●

RECOGNIZING SIOUX FALLS SEMINARY

● Mr. THUNE. Madam President, today I wish to recognize Sioux Falls Seminary located in Sioux Falls, SD, as they celebrate their 150th anniversary.

The Sioux Falls Seminary is a North American Baptist Seminary, which prides itself on the strength of their Bible focused curriculum and the valuable hands on ministry experience that they provide their students. The dedication of the Sioux Falls Seminary to educating its students for more than 150 years is truly commendable. I am proud to have such a fine institution in the State of South Dakota.

I would like to offer my congratulations to the Seminary of Sioux Falls on this milestone accomplishment and wish them continued prosperity in the years to come.●

TRIBUTE TO SARA MELLEGARD

● Mr. THUNE. Madam President, today I honor Sara Mellegard of Rapid City, SD, who has been named the Black Hills Workshop Artist of the Year. This is an impressive accomplishment that reflects Sara's hard work and dedication and I am proud to have such a fine young artist representing the state of South Dakota.

Sara has developed her artistic skills with the help of the staff and resources at the Suzie Cappa Center for Art Expression and Enjoyment, which is part of the Black Hills Workshop. In addition to her painting, Sara also draws and works with ceramics. As a result of her award, Sara's work will be displayed at the Suzie Cappa Center, the Dahl Fine Arts Center and a reproduction of one her paintings, Doves, will be available for purchase as a postcard.

It gives me great pleasure to recognize Sara Mellegard and to congratulate her on receiving this well-earned award. I wish her continued success in the years to come.●

TRIBUTE TO JIM WHITE

● Mr. THUNE. Madam President, today I honor Mr. Jim White, who is being recognized by the Wellspring Treatment Center in Rapid City, SD, for his many years of service to the local community, his outstanding generosity, and his dedication to encouraging local small businesses. It is people like Jim who make up the backbone of South Dakota's communities.

Jim White is the owner and founder of Sound Pro, a small business that he has operated for the past 32 years. He began the business as a young man and through hard work and dedication, grew the business into an establishment that is both customer and employee friendly. He has been a shining example of a hard-working and reliable businessman.

In addition to his dedication to the local business community, Mr. White has a special concern for the local young people. After reading a newspaper article about a local girl in need of a kidney transplant, he didn't hesitate to get tested as a potential donor. Upon hearing that he was a perfect match, Mr. White generously and selflessly gave his kidney to the young girl in order to save her life.

Mr. White is not only a generous local businessman, he also actively gives his time as a volunteer for many community organizations. He currently serves as a board member and also participates as a Big Brother mentor himself. Jim is a positive influence and great role model for these boys as well as the rest of his community.

Outside of Big Brothers and Big Sisters, Mr. White also willingly donates his time to mentor those in the community struggling with substance abuse and addiction. Despite his extremely busy schedule, he puts a high priority on encouraging and supporting people in the community from all walks of life. This support is also shown by his service as a member of the board of directors of the Wellspring Treatment Center, a local nonprofit agency that provides treatment and services to young people struggling with behavioral, emotional and chemical dependency problems.

In addition to all of his other commitments, Mr. White is the chairman of the Military Affairs Committee for the Rapid City Chamber of Commerce. He is extremely dedicated to this position and has even been given the title of ''Honorary Commander'' for the Ellsworth AFB Wing Commander.

This honorable recognition is clearly well-deserved. It is dedicated folks like Jim who make up the backbone of South Dakota's communities and it gives me great pleasure to commemorate Jim White on this special occasion and to wish him continued success in the years to come.●

REPORT OF AN EXECUTIVE ORDER BLOCKING THE PROPERTY AND INTERESTS IN PROPERTY OF PERSONS DETERMINED TO HAVE BEEN INVOLVED IN THE CORRUPTION OF SENIOR OFFICIALS OF THE GOVERNMENT OF SYRIA—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 et seq.)(IEEPA), I hereby report that I have issued an Executive Order taking additional steps with respect to the Government of Syria's continued engagement in certain conduct that formed the basis for the national emergency declared in Executive Order 13338 of May 11, 2004, including but not limited to its efforts to undermine the stabilization and reconstruction of Iraq.

This order will block the property and interests in property of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to be responsible for, to have engaged in, to have facilitated, or to have secured improper advantage as a result of, public corruption by senior officials within the Government of Syria. The order also revises a provision in Executive Order 13338 to block the property and interests in property of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to be responsible for or otherwise significantly contributing to actions or decisions of the Government of Syria that have the purpose or effect of undermining efforts to stabilize Iraq or of allowing the use of Syrian territory or facilities to undermine efforts to stabilize Iraq.

I delegated to the Secretary of the Treasury the authority to take such actions, after consultation with the Secretary of State, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of my order.

I wish to emphasize, as well, my ongoing concern over the destabilizing role Syria continues to play in Lebanon, including its efforts to obstruct, through intimidation and violence, Lebanon's democratic processes.

I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 13, 2008*.

MESSAGES FROM THE HOUSE

At 2:04 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 29. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

H.R. 2251. An act to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes.

H.R. 3332. An act to provide for the establishment of a memorial within Kalaupapa National Historical Park located on the island of Molokai, in the State of Hawaii, to honor and perpetuate the memory of those individuals who were forcibly relocated to the Kalaupapa Peninsula from 1866 to 1969, and for other purposes.

H.R. 3468. An act to designate the facility of the United States Postal Service located at 1704 Weeksville Road in Elizabeth City, North Carolina, as the ''Dr. Clifford Bell Jones, Sr. Post Office.''

H.R. 3532. An act to designate the facility of the United States Postal Service located at 5815 McLeod Street in Lula, Georgia, as the ''Private Johnathon Millican Lula Post Office.''

H.R. 4203. An act to designate the facility of the United States Postal Service located at 3035 Stone Mountain Street in Lithonia, Georgia, as the ''Specialist Jamaal RaShard Addison Post Office Building.''

H.R. 5135. An act to designate the facility of the United States Postal Service located at 201 West Greenway Street in Derby, Kansas, as the ''Sergeant Jamie O. Maugans Post Office Building.''

H.R. 5270. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 209. Concurrent resolution expressing the sense of Congress that the Museum of the American Quilter's Society, located in Paducah, Kentucky, should be designated as the ''National Quilt Museum of the United States''.

H. Con. Res. 281. Concurrent resolution celebrating the birth of Abraham Lincoln and recognizing the prominence the Declaration of Independence played in the development of Abraham Lincoln's beliefs.

The message further announced that the House has agreed to the following resolution:

H. Res. 975. Resolution relative to the death of the Honorable Tom Lantos, a Representative from the State of California.

At 4:58 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 293. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 29. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2251. An act to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3332. An act to provide for the establishment of a memorial within Kalaupapa National Historical Park located on the island of Molokai, in the State of Hawaii, to honor and perpetuate the memory of those individuals who were forcibly relocated to

the Kalaupapa Peninsula from 1866 to 1969, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3468. An act to designate the facility of the United States Postal Service located at 1704 Weeksville Road in Elizabeth City, North Carolina, as the ''Dr. Clifford Bell Jones, Sr. Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3532. An act to designate the facility of the United States Postal Service located at 5815 McLeod Street in Lula, Georgia, as the ''Private Johnathon Millican Lula Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4203. An act to designate the facility of the United States Postal Service located at 3035 Stone Mountain Street in Lithonia, Georgia, as the ''Specialist Jamaal RaShard Addison Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5135. An act to designate the facility of the United States Postal Service located at 201 West Greenway Street in Derby, Kansas, as the ''Sergeant Jamie O. Maugans Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 281. Concurrent resolution celebrating the birth of Abraham Lincoln and recognizing the prominence the Declaration of Independence played in the development of Abraham Lincoln's beliefs; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2633. A bill to provide for the safe redeployment of United States troops from Iraq.

S. 2634. A bill to require a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

S. 2636. A bill to provide needed housing reform.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5047. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''1,3-Dichloropropene and Metabolites; Pesticide Tolerance'' (FRL No. 8345-1) received on February 7, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5048. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, the report of an officer authorized to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5049. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, the report of (3) officers authorized to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5050. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report relative to the amount of funds the Department intends to obligate for the Cooperative Threat Reduction Program for fiscal year 2008; to the Committee on Armed Services.

EC–5051. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, the report of an officer authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5052. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a review of the C-5 Reliability Enhancement and Re-Engining Program; to the Committee on Armed Services.

EC–5053. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 2816) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5054. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (72 FR 2835) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5055. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (72 FR 2830) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5056. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (72 FR 2818) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5057. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (72 FR 2827) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5058. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (72 FR 2822) received on February 1, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5059. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processors Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XF06) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5060. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of Homeland Security, transmitting, pursuant to law, a report relative to the U.S. Coast Guard's compliance with the Edible Oil Regulatory Reform Act; to the Committee on Commerce, Science, and Transportation.

EC–5061. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television'' (MB Docket No. 07-91) received on February 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5062. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Board's competitive sourcing efforts during fiscal year 2007; to the Committee on Commerce, Science, and Transportation.

EC–5063. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone (including 4 regulations beginning with USCG-2007-0128)'' (RIN1625-AA00) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5064. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 2 regulations beginning with USCG-2007-0026)'' (RIN1625-AA09) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5065. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 4 regulations beginning with USCG-2008-0015)'' (RIN1625-AA09) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5066. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Regulations (including 3 regulations beginning with USCG-2007-0023)'' (RIN1625-AA01) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5067. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations: Recurring Marine Events in the Seventh Coast Guard District'' ((RIN1625-AA08)(USCG-2007-0179)) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5068. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Potomac and Anacostia Rivers, Washington, DC and Arlington and Fairfax Counties, VA'' ((RIN1625-AA87)(USCG-2008-0005)) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5069. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 3 regulations beginning with USCG-2007-0146)'' (RIN1625-AA09) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5070. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Tampa Bay, Port of Tampa, Port of St. Petersburg, Rattlesnake, Old Port Tampa, Big

Bend, Weedon Island, and Crystal River, Florida'' ((RIN1625-AB17)(CGD01-04-133)) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5071. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Tampa Bay, Port of Tampa, Port of St. Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River, Florida'' ((RIN1625-AA87)(USCG-2007-0062)) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5072. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone (including 2 regulations beginning with USCG-2007-0093)'' (RIN1625-AB87) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5073. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Landowner Defenses to Liability Under the Oil Pollution Act of 1990: Standards and Practices for Conducting All Appropriate Inquiries'' ((RIN1625-AB09)(Docket No. USCG-2006-25708)) received on February 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5074. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Fourth Report and Order'' (FCC 07-223) received on February 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5075. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Meetetse, Wyoming, Fruita, Colorado, Ashton, Burley, Dubois, Idaho Falls, Pocatello, Rexburg, Shelley, Soda Springs, and Weston, Idaho, Lima, Montana, American Fork, Ballard, Brigham City, Centerville, Delta, Huntington, Kaysville, Logan, Manti, Milford, Naples, Oakley, Orem, Price, Randolph, Roosevelt, Roy, Salina, South Jordan, Spanish Fork, Vernal, Wellington, and Woodruff, Utah, Diamondville, Evanston, Kemmerer, Marbleton, Superior, Thayne, and Wilson, Wyoming'' (MB Docket No. 05-243) received on February 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5076. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2008 Bering Sea Pollock Total Allowable Catch Amount'' (RIN0648-XE78) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5077. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Direct Investment Surveys: BE-12, 2007 Benchmark Survey of Foreign Direct Investment in the United States'' (RIN0691-AA64) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5078. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Direct Investment Surveys: BE-11, Annual Survey of U.S. Direct Investment Abroad - 2007'' (RIN0691-AA63) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5079. A communication from the Senior Procurement Executive and Director, Office of Acquisition Management and Financial Assistance, Department of Commerce, transmitting, pursuant to law, a report relative to the Department's competitive sourcing efforts during fiscal year 2007; to the Committee on Commerce, Science, and Transportation.

EC–5080. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2008 Gulf of Alaska Pacific Cod Total Allowable Catch Amount'' (RIN0648-XE80) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5081. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Inseason Bluefish Quota Transfer from FL to NY'' (RIN0648-XE43) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5082. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area for Vessels Using Trawl Gear'' (RIN0648-XE81) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5083. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reapportionment of Surplus Pacific Whiting Allocation'' (RIN0648-XE38) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5084. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule for the Regulatory Amendment to Revise Vermilion Snapper Regulations Under the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico'' (RIN0648-AV45) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5085. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''2008 Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries'' (RIN0648-XC84) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5086. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Inseason Action, Temporary Rule, Georges Bank Yellowtail Flounder Possession Limit Reduction'' (RIN0648-XE82) received on February 1, 2008; to the Committee on Commerce, Science, and Transportation.

EC–5087. A communication from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the Office's Annual Report for fiscal year 2006; to the Committee on Energy and Natural Resources.

EC–5088. A communication from the Executive Director, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands'' (FERC Docket No. RM08–6–000) received on February 12, 2008; to the Committee on Energy and Natural Resources.

EC–5089. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''Performance Profiles of Major Energy Producers 2006''; to the Committee on Energy and Natural Resources.

EC–5090. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District'' (FRL No. 8527–5) received on February 12, 2008; to the Committee on Environment and Public Works.

EC–5091. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Air Quality Planning Purposes; Georgia: Early Progress Plan for the Atlanta 8-Hour Ozone Nonattainment Area'' (FRL No. 8528–8) received on February 12, 2008; to the Committee on Environment and Public Works.

EC–5092. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Louisiana's Petition To Relax the Summer Gasoline Volatility Standard for the Grant Parish Area'' (FRL No. 8529–2) received on February 12, 2008; to the Committee on Environment and Public Works.

EC–5093. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Nonattainment and Reclassification of the Imperial County, 8-Hour Ozone Nonattainment Area'' (FRL No. 8528–4) received on February 12, 2008; to the Committee on Environment and Public Works.

EC–5094. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maine; Conformity of General Federal Actions'' (FRL No. 8517–6) received on February 7, 2008; to the Committee on Environment and Public Works.

EC–5095. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Budget Trading Program'' (FRL No. 8526–8) received on February 7, 2008; to the Committee on Environment and Public Works.

EC–5096. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Regulation No. 7, Section XII, Volatile Organic Compounds From Oil and Gas Operations'' (FRL No. 8521–5) received on February 7, 2008; to the Committee on Environment and Public Works.

EC–5097. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New Jersey; Zero-Emission Vehicle Component of the Low Emission Vehicle Program'' (FRL No. 8522–3) received on February 7, 2008; to the Committee on Environment and Public Works.

EC–5098. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice 2008–24) received on February 7, 2008; to the Committee on Finance.

EC–5099. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to Medicare beneficiaries with specified chronic conditions who are deemed to be homebound; to the Committee on Finance.

EC–5100. A communication from the Deputy Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (22 CFR Parts 4022 and 4044) received on February 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–5101. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to the Department's competitive sourcing efforts during fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–5102. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Health, received on February 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–5103. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department, received on February 1, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–5104. A communication from the Acting Controller, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Federal Financial Management Report for fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5105. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, justification of its budget estimates for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–5106. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–290, ''Juvenile Speedy Trial Equity Temporary Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5107. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–281, ''Non-Resident Taxi Drivers Registration Amendment Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5108. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–282, ''SafeRx Amendment Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5109. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–283, ''Disposition and Redevelopment of Lot 854 in Square 441 Approval Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5110. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–285, ''District of Columbia Public Library Retirement Incentive Temporary Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5111. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–286, ''Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Amendment Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5112. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–287, ''Minority and Women-Owned Business Assessment Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5113. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–288, ''Excellence in Local Business Contract Grading Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5114. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–289, ''National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008'' received on February 12, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5115. A communication from the Secretary, Judicial Conference of the United States, transmitting, the report of two courts improvement proposals adopted in September 2007; to the Committee on the Judiciary.

EC–5116. A communication from the Director of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Loan Guaranty: Loan Servicing and Claims Procedures Modifications'' (RIN2900–AL65) received on February 1, 2008; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 439. A resolution expressing the strong support of the Senate for the North Atlantic Treaty Organization to enter into a Membership Action Plan with Georgia and Ukraine.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

*John E. Osborn, of Delaware, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2009.

*Mark McKinnon, of Texas, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2009, to which position he was appointed during the last recess of the Senate.

*Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2008.

*Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2011.

*Edward E. Kaufman, of Delaware, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2009.

*Susan M. McCue, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2010.

*Dennis M. Mulhaupt, of California, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2008.

*Steven J. Simmons, of Connecticut, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2009.

*William J. Hybl, of Colorado, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2009.

*Elizabeth F. Bagley, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2008.

*James K. Glassman, of Connecticut, to be Under Secretary of State for Public Diplomacy with the rank of Ambassador.

*Ana M. Guevara, of Florida, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years.

*Goli Ameri, of Oregon, to be an Assistant Secretary of State (Educational and Cultural Affairs).

*Larry Woodrow Walther, of Arkansas, to be Director of the Trade and Development Agency.

*Hector E. Morales, of Texas, to be Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

*David J. Kramer, of Massachusetts, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

*Jeffrey J. Grieco, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*James Francis Moriarty, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Nominee: James Francis Moriarty.

Post: Dhaka, Bangladesh.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, Lauren Moriarty, none.

3. Children and spouses: T.F. Mana Moriarty, none; Kathleen K. Moriarty, none.

4. Parents: William Moriarty (deceased); June Buckley (deceased).

5. Grandparents: Rene Provencal (deceased); Carmel Provencal, none.

6. Brothers and Spouses: Philip G. Moriarty (single), none; Mark F. Moriarty (single), none.

7. Sisters and Spouses: Margaret Staruk, none; Harry Staruk, none.

*Margaret Scobey, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

Nominee: Margaret Scobey.

Post: Ambassador to Egypt.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: none.

2. Spouse: n/a.

3. Children and Spouses: n/a.

4. Parents: James L. and Dolores K. Scobey (deceased). Grandparents: W.C. and Viola Scobey (deceased); John and Theodora Koshalek (deceased).

5. Brothers and Spouses: James L. and Janet Scobey: 25.00, 2006, Mel Martinez; 25.00, 2006, Tom Feeny; 25.00, 2006, Bill McCollum. Martin W. and Mary Scobey: none.

6. Sisters and Spouses: n/a.

*Deborah K. Jones, of New Mexico, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait.

Nominee: Deborah Kay Jones.

Post: U.S. Embassy Kuwait.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Minor children, Ana (15), and Isabella (11) Olson, none.

4. Parents: Lavar Allred Jones (deceased June 1999), father; Corina Ringius Nolting, mother, none.

5. Grandparents: Leland James Jones (deceased 1986); Minnie Louise Jones (deceased 1968); Carlos Fortunato Ringius (deceased—Argentine national); Ana Maria Tiscornia (deceased—Argentine national).

6. Brothers and Spouses: unknown; Lavar Allred Jones, Jr.—no contact since 1981, none. Dwight Timothy Jones/Selene, spouse.

7. Sisters and Spouses: Celia Bezou/Jacques Francois Bezou, spouse, $1,000, 2004, John Kerry; Leslie Louise Jones, $100, 2004, Howard Dean; Wendy Jones/James Hargrove, spouse, none; Rachel Jones/Nathan Yorgason, spouse, none; Heather Jones/Jason Johnson, spouse, none; Katherine Jones/Jared Holland, spouse, none.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. LIEBERMAN, Mr. SESSIONS, Mr. FEINGOLD, Mr. ISAKSON, Mr. ALEXANDER, Mr. VOINOVICH, Mr. LUGAR, Mr. CHAMBLISS, Mrs. HUTCHISON, Mr. MARTINEZ, Mr. ENZI, Mr. CORKER, and Ms. SNOWE):

S. 2627. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget.

By Mr. ENSIGN:

S. 2628. A bill to amend the Internal Revenue Code of 1986 to treat income earned by mutual funds from exchange-traded funds holding precious metal bullion as qualifying income; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 2629. A bill to amend title XIX of the Social Security Act to provide Medicaid coverage of drugs prescribed for certain research study child participants; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. KERRY, and Ms. MURKOWSKI):

S. 2630. A bill to amend the Public Health Service Act to establish a Federal grant program to provide increased health care coverage to and access for uninsured and underinsured workers and families in the commercial fishing industry, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. VOINOVICH, and Mr. WHITEHOUSE):

S. 2631. A bill to award a congressional gold medal to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOND:

S. 2632. A bill to ensure that the Sex Offender Registration and Notification Act is applied retroactively; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. REID):

S. 2633. A bill to provide for the safe redeployment of United States troops from Iraq; read the first time.

By Mr. FEINGOLD (for himself and Mr. REID):

S. 2634. A bill to require a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates; read the first time.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2635. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 2636. A bill to provide needed housing reform; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENZI (for himself, Mr. BARRASSO, Mr. ALLARD, Mr. CRAIG, Mr. CRAPO, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. BINGAMAN, Mr. INHOFE, Mrs. MURRAY, Mr. REID, Mr. SALAZAR, Mr. STEVENS, Mr. MARTINEZ, and Mr. JOHNSON):

S. Res. 450. A resolution designating July 26, 2008, as ''National Day of the Cowboy''; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. CASEY):

S. Res. 451. A resolution honoring the achievements of Rawle and Henderson LLP, on its 225th anniversary and on being recognized as the oldest law firm in continuous practice in the United States; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. CASEY):

S. Res. 452. A resolution commemorating the 250th Anniversary of the Naming of Pittsburgh as the culmination of the Forbes Campaign across Pennsylvania and the significance this event played in the making of America, in the settlement of the continent, and in spreading the ideals of freedom and democracy throughout the world; considered and agreed to.

By Mr. CHAMBLISS (for himself and Mr. ISAKSON):

S. Res. 453. A resolution recognizing February 20, 2008, as the 100th anniversary of Abraham Baldwin Agricultural College; considered and agreed to.

ADDITIONAL COSPONSORS

S. 400

At the request of Mr. SUNUNU, the names of the Senator from California (Mrs. BOXER) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 400, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

S. 727

At the request of Mr. COCHRAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 727, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 969

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. BAYH)

was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1758

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1758, a bill to amend the Public Health Service Act to help individuals with functional impairments and their families pay for services and supports that they need to maximize their functionality and independence and have choices about community participation, education, and employment, and for other purposes.

S. 1760

At the request of Mr. BROWN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1760, a bill to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 1998

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1998, a bill to reduce child marriage, and for other purposes.

S. 2059

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2059, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 2125

At the request of Mr. KOHL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2125, a bill to improve public awareness in the United States among older individuals and their families and caregivers about the impending Digital Television Transition through the establishment of a Federal interagency taskforce between the Federal Communications Commission, the Administration on Aging, the National Telecommunications and Information Administration, and the outside advice of appropriate members of the aging network and industry groups.

S. 2144

At the request of Mr. COLEMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2144, a bill to require the Secretary of Energy to conduct a study of feasibility relating to the construction and operation of pipelines and carbon dioxide sequestration facilities, and for other purposes.

S. 2170

At the request of Mrs. HUTCHISON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction.

S. 2219

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2219, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare Program.

S. 2262

At the request of Mr. DOMENICI, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 2262, a bill to authorize the Preserve America Program and Save America's Treasures Program, and for other purposes.

S. 2408

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2408, a bill to amend title XVIII of the Social Security Act to require physician utilization of the Medicare electronic prescription drug program.

S. 2433

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

S. 2566

At the request of Mr. ISAKSON, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 2566, a bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases.

S. 2580

At the request of Mr. BROWN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2580, a bill to amend the Higher Education Act of 1965 to improve the participation in higher education of, and to increase opportunities in employment for, residents of rural areas.

S. 2593

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2593, a bill to establish a program at the Forest Service and the Department of the Interior to carry out collaborative ecological restoration treatments for priority forest landscapes on public land, and for other purposes.

S. 2617

At the request of Mr. AKAKA, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2617, a bill to increase, effective as of December 1, 2008, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2625

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2625, a bill to ensure that deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts, be excluded from consideration as annual income when determining eligibility for low-income housing programs.

S. RES. 439

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. Res. 439, a resolution expressing the strong support of the Senate for the North Atlantic Treaty Organization to enter into a Membership Action Plan with Georgia and Ukraine.

S. RES. 444

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 444, a resolution expressing the sense of the Senate regarding the strong alliance that has been forged between the United States and the Republic of Korea and congratulating Myung-Bak Lee on his election to the presidency of the Republic of Korea.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. LIEBERMAN, Mr. SESSIONS, Mr. FEINGOLD, Mr. ISAKSON, Mr. ALEXANDER, Mr. VOINOVICH, Mr. LUGAR, Mr. CHAMBLISS, Mrs. HUTCHISON, Mr. MARTINEZ, Mr. ENZI, Mr. CORKER, and Ms. SNOWE):

S. 2627. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget.

Mr. DOMENICI. Mr. President, on behalf of Senator LIEBERMAN, the distinguished chairman of the Homeland Security and Governmental Affairs Committee, I rise to introduce the Biennial Budgeting and Appropriations Act, a bill to convert the annual budget and appropriations process to a 2-year cycle and to enhance oversight of Federal programs.

Mr. President, our most recent experience with the fiscal year 2008 Omnibus Consolidated Appropriations Act shows the need for a biennial appropriations and budget process. That one bill clearly demonstrated Congress is incapable of completing the budget, authorizing, and appropriations process on an annual basis and unfortunantly, this is not the first time.

Congress should now act to streamline the system by moving to a 2-year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Senate a more deliberative and effective institution, and to make us more accountable to the American people.

Moving to a biennial budget and appropriations process enjoys very broad support. President George W. Bush has supported a biennial budgeting process. Presidents Clinton, Reagan, and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who served as White House Chief of Staff, OMB Director, and House Budget Committee chairman, has advocated a biennial budget since the late 1970s. Former OMB and CBO Director Alice Rivlin has called for a biennial budget the past two decades. Vice President Gore's National Performance Review and the 1993 Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle.

A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. Look at what we struggle to complete each year under the current annual process. The annual budget process consumes 3 years: 1 year for the administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the congressional budget process, the process of annually passing a budget resolution, authorization legislation, and multiple appropriation bills. The record clearly shows that last year's experience was nothing new. Under the annual process, we consistently fail to complete action on multiple appropriations bills, to authorize programs, and to meet our deadlines.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

Several years ago, I asked the Congressional Research Service, CRS, to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined any other vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. Beginning with 1980, budget related votes started dominating the work of the Senate. In 1996, 73 percent of the votes the Senate took were related to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget throughout the authorizing, budgeting, and appropriations process, just imagine how confused the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our Government.

Under the legislation we are introducing today, the President would submit a 2-year budget and Congress would consider a 2-year budget resolution and 2-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of Government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or plan on a 2-year basis. For most of the budget, we do not actually budget on an annual basis. Our entitlement and revenue laws are under permanent law, and Congress does not change these laws on an annual basis. The only component of the budget that is set in law annually are the appropriated, or discretionary, accounts.

The most predictable category of the budget are these appropriated, or discretionary, accounts of the Federal Government. Much of this spending is associated with international activities or emergencies. Because most of this funding cannot be predicted on an annual basis, a biennial budget is no less deficient than the current annual process. My bill does not preclude supplemental appropriations necessary to meet these emergency or unanticipated requirements.

In 1993 I had the honor to serve as cochairman on a joint committee that studied the operations of the Congress. Senator BYRD testified before that committee that the increasing demands put on us as Senators has led to our ''fractured attention.'' We simply are too busy to adequately focus on the people's business. This legislation is designed to free up time and focus our attention, particularly with respect to the oversight of Federal programs and activities.

Frankly, the limited oversight we are now doing is not as good as it should be. Our authorizing committees are increasingly crowded out of the legislative process. Under a biennial budget, the second year of the biennium will be exclusively devoted to examining Federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to provide oversight, review, and legislate changes to Federal programs. Oversight and the authorization should be an ongoing process, but a biennial appropriations process will provide greater opportunity for legislators to concentrate on programs and policies in the second year.

A biennial budget cannot make the difficult decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. Under the current annual budget process, we are constantly spending the taxpayers' money instead of focusing on how best and most efficiently we should spend the taxpayers' money. By moving to a biennial budget cycle, we can plan, budget, and appropriate more effectively, strengthen oversight and watchdog functions, and improve the efficiency of government agencies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 2627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Biennial Budgeting and Appropriations Act''.

SEC. 2. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

''TIMETABLE

''SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Eleventh Congress) is as follows:

''First Session

On or before:	Action to be completed:
First Monday in February.	President submits budget recommendations.
February 15 ...	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

Second Session

On or before:	Action to be completed:
February 15 ...	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session.	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

''(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year

immediately following a leap year and during which the term of a President (except a President who succeeds himself or herself) begins, the following dates shall supersede those set forth in subsection (a):

''First Session

On or before:	Action to be completed:
First Monday in April.	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.
July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.''.

SEC. 3. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking ''each year'' and inserting ''biennially''.

(b) DEFINITIONS.—

(1) BUDGET RESOLUTION.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(2) BIENNIUM.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

''(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.''.

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking ''annual'' and inserting ''biennial''.

(2) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking ''April 15 of each year'' and inserting ''May 15 of each odd-numbered year'';

(ii) striking ''the fiscal year beginning on October 1 of such year'' the first place it appears and inserting ''the biennium beginning on October 1 of such year''; and

(iii) striking ''the fiscal year beginning on October 1 of such year'' the second place it appears and inserting ''each fiscal year in such period'';

(B) in paragraph (6), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''; and

(C) in paragraph (7), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''.

(3) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking ''for such fiscal year'' and inserting ''for either fiscal year in such biennium''.

(4) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting ''(or, if applicable, as provided by section 300(b))'' after ''United States Code''.

(5) HEARINGS.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) inserting after the second sentence the following: ''On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.''.

(6) GOALS FOR REDUCING UNEMPLOYMENT.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(7) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking ''for a fiscal year'' and inserting ''for a biennium''.

(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking ''Annual'' and inserting ''Biennial''.

(d) COMMITTEE ALLOCATIONS.—Section 302 of such Act (2 U.S.C. 633) is amended—

(1) in subsection (a)

(A) in paragraph (1), by—

(i) striking ''for the first fiscal year of the resolution,'' and inserting ''for each fiscal year in the biennium,'';

(ii) striking ''for that period of fiscal years'' and inserting ''for all fiscal years covered by the resolution''; and

(iii) striking ''for the fiscal year of that resolution'' and inserting ''for each fiscal year in the biennium''; and

(B) in paragraph (5), by striking ''April 15'' and inserting ''May 15 or June 1 (under section 300(b))'';

(2) in subsection (b), by striking ''budget year'' and inserting ''biennium'';

(3) in subsection (c) by striking ''for a fiscal year'' each place it appears and inserting ''for each fiscal year in the biennium'';

(4) in subsection (f)(1), by striking ''for a fiscal year'' and inserting ''for a biennium'';

(5) in subsection (f)(1), by striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium'';

(6) in subsection (f)(2)(A), by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''the total of fiscal years'' and inserting ''the total of all fiscal years covered by the resolution''; and

(7) in subsection (g)(1)(A), by striking ''April'' and inserting ''May''.

(e) SECTION 303 POINT OF ORDER.—

(1) IN GENERAL.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''that fiscal year'' each place it appears and inserting ''that biennium''.

(2) EXCEPTIONS IN THE HOUSE.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking ''the budget year'' and inserting ''the biennium''; and

(B) in subparagraph (B), by striking ''the fiscal year'' and inserting ''the biennium''.

(3) APPLICATION TO THE SENATE.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) striking ''that year'' and inserting ''each fiscal year of that biennium''.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking ''fiscal year'' the first two places it appears and inserting ''biennium''; and

(2) by striking ''for such fiscal year'' and inserting ''for such biennium''.

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305 of such Act (2 U.S.C. 636(3)) is amended—

(1) in subsection (a)(3), by striking ''fiscal year'' and inserting ''biennium''; and

(2) in subsection (b)(3), by striking ''fiscal year'' and inserting ''biennium''.

(h) COMPLETION OF HOUSE ACTION ON APPROPRIATION BILLS.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking ''each year'' and inserting ''each odd-numbered year'';

(2) by striking ''annual'' and inserting ''biennial'';

(3) by striking ''fiscal year'' and inserting ''biennium''; and

(4) by striking ''that year'' and inserting ''each odd-numbered year''.

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting ''of any odd-numbered calendar year'' after ''July'';

(2) by striking ''annual'' and inserting ''biennial''; and

(3) by striking ''fiscal year'' and inserting ''biennium''.

(j) RECONCILIATION PROCESS.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''any fiscal year'' and inserting ''any biennium''; and

(2) in paragraph (1) by striking ''such fiscal year'' each place it appears and inserting ''any fiscal year covered by such resolution''.

(k) SECTION 311 POINT OF ORDER.—

(1) IN THE HOUSE.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(B) by striking ''the first fiscal year'' each place it appears and inserting ''either fiscal year of the biennium''; and

(C) by striking ''that first fiscal year'' and inserting ''each fiscal year in the biennium''.

(2) IN THE SENATE.—Section 311(a)(2) of such Act is amended—

(A) in subparagraph (A), by striking ''for the first fiscal year'' and inserting ''for either fiscal year of the biennium''; and

(B) in subparagraph (B)—

(i) by striking ''that first fiscal year'' the first place it appears and inserting ''each fiscal year in the biennium''; and

(ii) by striking ''that first fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(3) SOCIAL SECURITY LEVELS.—Section 311(a)(3) of such Act is amended by—

(A) striking ''for the first fiscal year'' and inserting ''each fiscal year in the biennium''; and

(B) striking ''that fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(l) MDA POINT OF ORDER.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(2) in paragraph (1), by striking ''the first fiscal year'' and inserting ''either fiscal year in the biennium'';

(3) in paragraph (2), by striking ''that fiscal year'' and inserting ''either fiscal year in the biennium''; and

(4) in the matter following paragraph (2), by striking ''that fiscal year'' and inserting ''the applicable fiscal year''.

SEC. 4. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of

the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

''(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Eleventh Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget of the United States Government transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:''.

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 fiscal years''.

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years''.

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended in subparagraph (A), by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking ''that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted''.

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking ''the fiscal year following the fiscal year'' and inserting ''each fiscal year in the biennium following the biennium'';

(B) by striking ''that following fiscal year'' and inserting ''each such fiscal year''; and

(C) by striking ''fiscal year before the fiscal year'' and inserting ''biennium before the biennium''.

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years,'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' and inserting ''in those fiscal years''.

(11) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' each place it appears and inserting ''in those fiscal years''.

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking ''each year'' and inserting ''each even-numbered year''.

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking ''the fiscal year for'' the first place it appears and inserting ''each fiscal year in the biennium for'';

(2) by striking ''the fiscal year for'' the second place it appears and inserting ''each fiscal year of the biennium, as the case may be, for''; and

(3) by striking ''for that year'' and inserting ''for each fiscal year of the biennium''.

(e) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e)(1) of title 31, United States Code, is amended by striking ''ensuing fiscal year'' and inserting ''biennium to which such budget relates''.

(f) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) IN GENERAL.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(ii) striking ''fiscal year'' and inserting ''biennium'';

(B) in paragraph (1), by striking ''that fiscal year'' and inserting ''each fiscal year in such biennium'';

(C) in paragraph (2), by striking ''fiscal year'' and inserting ''biennium''; and

(D) in paragraph (3), by striking ''fiscal year'' and inserting ''biennium''.

(2) CHANGES.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking ''the fiscal year'' and inserting ''each fiscal year in the biennium'';

(B) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(C) striking ''submitted before July 16'' and inserting ''required by this subsection''.

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) IN GENERAL.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking ''On or before the first Monday after January 3 of each year (on or before February 5 in 1986)'' and inserting ''At the same time the budget required by section 1105 is submitted for a biennium''; and

(B) by striking ''the following fiscal year'' and inserting ''each fiscal year of such period''.

(2) JOINT ECONOMIC COMMITTEE.—Section 1109(b) of title 31, United States Code, is amended by striking ''March 1 of each year'' and inserting ''within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)''.

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking ''May 16'' and inserting ''March 31''; and

(2) striking ''year before the year in which the fiscal year begins'' and inserting ''calendar year preceding the calendar year in which the biennium begins''.

SEC. 5. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

''§ 105. Title and style of appropriations Acts

''(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

''(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

''(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

SEC. 6. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''AUTHORIZATIONS OF APPROPRIATIONS

''SEC. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

''(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

''(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

''(b) APPLICABILITY.—In the Senate, subsection (a) shall not apply to—

''(1) any measure that is privileged for consideration pursuant to a rule or statute;

''(2) any matter considered in Executive Session; or

''(3) an appropriations measure or reconciliation bill.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 315 the following new item:

''Sec. 316. Authorizations of appropriations''.

SEC. 7. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2009'';

(2) in subsection (b)—

(A) by striking ''five years forward'' and inserting ''6 years forward'';

(B) by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(C) by striking beginning with '', except that'' through ''four years''; and

(3) in subsection (c), by inserting a comma after ''section'' the second place it appears and adding ''including a strategic plan submitted by September 30, 2009 meeting the requirements of subsection (a)''.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking ''beginning with fiscal year 1999, a'' and inserting ''beginning with fiscal year 2010, a biennial''.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)''; and

(ii) by striking ''an annual'' and inserting ''a biennial'';

(B) in paragraph (1) by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(C) in paragraph (5) by striking ''and'' after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting ''and'' after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.'';

(2) in subsection (d) by striking ''annual'' and inserting ''biennial''; and

(3) in paragraph (6) of subsection (f) by striking ''annual'' and inserting ''biennial''.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''annual''; and

(B) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)'';

(2) in subsection (e)—

(A) in the first sentence by striking ''one or'' before ''years'';

(B) in the second sentence by striking ''a subsequent year'' and inserting ''a subsequent 2-year period''; and

(C) in the third sentence by striking ''three'' and inserting ''4''.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking ''annual'' and inserting ''biennial''; and

(2) in subsection (e), by striking ''annual'' and inserting ''biennial''.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) is subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2009'';

(2) by striking ''five years forward'' and inserting ''6 years forward'';

(3) in subsection (b), by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(4) in subsection (c), by inserting a comma after ''section'' the second place it appears and inserting ''including a strategic plan submitted by September 30, 2009 meeting the requirements of subsection (a)''.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking ''an annual'' and inserting ''a biennial'';

(2) in paragraph (1), by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(3) in paragraph (5), by striking ''and'' after the semicolon;

(4) in paragraph (6), by striking the period and inserting ''; and''; and

(5) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.''.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end ''Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2009.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 8. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

''CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

''SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 316 the following new item:

''Sec. 317. Consideration of biennial appropriations bills''.

SEC. 9. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this Act, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 10. EFFECTIVE DATE.

Except as provided in section 7, this Act and the amendments made by this Act shall take effect on January 1, 2009, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2010.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 2629. A bill to amend title XIX of the Social Security Act to provide Medicaid coverage of drugs prescribed for certain research study child participants; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce Nino's Act, to provide for the continuance of successful treatment for children who are required to leave National Institutes of Health, NIH, research studies. The NIH provides the greatest medical research in the world on innumerable diseases, including cancer, Alzheimer's, Parkinson's. The NIH also conducts excellent research on diseases that affect children. To conduct that research many brave children must partake in research studies including observational, or natural history, studies and clinical trials to test experimental therapies. This participation is critical to understanding diseases and ultimately finding cures at the NIH.

To participate in the trials and studies, children and their families often make considerable sacrifices. Families will travel great distances to receive treatment that may provide relief from the child's illness. In many cases, parents and doctors will have tried many treatments for the child's disease about which little may be known or understood. The NIH studies represent an opportunity for both the medical community to learn more about the disease and the child to be studied and potentially treated by the best researchers in the world.

When the experimental treatments are successful, it is cause for great celebration for the child. The joy, however, can end quickly as the studies come to end but the children who have been part of them continue to be stricken by these terrible illnesses.

Nino's Act seeks to transition children out of the NIH studies as they end so they don't experience a gap in their important treatment. This legislation continues the successful treatment initiated in NIH studies by providing access to the same prescription drugs for children who are required to leave NIH clinical studies due to the studies ending, researcher leaving, or other reason. Often drugs that are used successfully in these studies have not yet been approved by the Food and Drug Administration or have not been approved for treatment of the child's specific disease. As such, it is nearly impossible for children to get access or insurance coverage for these drugs. This bill makes that access possible by requiring Medicaid to cover the cost of treatment in the event that the children's health insurance does not.

On occasion, insurers will cover the cost of the treatment for these children if they have adequate insurance and the FDA has approved the drug for off-label uses. More often then not, however, children do not have health insurance, or have insufficient insurance to obtain these drugs. As a result, children suffer their diseases without relief from the treatment as established in the clinical NIH studies. To ensure that these children have access to successful care post-study, Nino's Act requires Medicaid to cover the cost of treatment for these children. While Medicaid access is traditionally based on income, due to the importance of these drugs to the child's well-being the income component will be waived. To ensure Medicaid is not unnecessarily covering medication, Nino's Act requires the physicians participating in the research to certify the treatment as successful and essential.

This important issue was introduced to me by Lori Todaro of Newville, PA. Lori's son Nino suffers from Undifferentiated Auto-Inflammatory Periodic Fever Syndrome. This disease takes a devastating toll on those who suffer from it. The auto-inflammatory

disease can cause joint inflammation arthritis, Crohns, colitis, irritable bowel syndrome, and cyclical high fevers. Treatment for Periodic Fever Syndrome is experimental at best; Lori and Nino have visited a number of doctors and tried many medications in an effort to control the disease.

In 2003, Nino was fortunate to be selected to take part in an observational study at NIH in Bethesda, Maryland for Undifferentiated Auto-inflammatory Periodic Fever Syndrome. During the course of the study, Nino was given a new medication and his condition greatly improved. Before he participated in the study he was being fitted for wheelchairs and was home schooled because his symptoms were so disruptive and unpredictable. The NIH treatment allowed him to resume a normal life and enabled him to attend school and play soccer. While Nino's treatment was successful he could not remain part of the study indefinitely and was encouraged to seek coverage for his treatments through his private insurer. Initially, the Todaro's insurer would not agree to cover the cost of the experimental drug and only after an intense lobbying effort by Lori, did the insurer agree to cover Nino's prescriptions.

Nino's story is a successful one, but also serves to highlight the issue that children and their families are facing as they transition out of NIH studies. For many, NIH trials are a source of hope for relief from the worst diseases known to man. The excellent doctors and research teams at NIH make invaluable contributions to our understanding of complex and debilitating diseases. This legislation seeks to amplify the NIH's contributions by allowing America's sickest children to continue their successful treatment under Medicaid coverage. I encourage my colleagues to work with Senator CASEY and me to move this legislation forward promptly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nino's Act''.

SEC. 2. MEDICAID COVERAGE OF DRUGS PRESCRIBED FOR RESEARCH STUDY CHILD PARTICIPANTS.

(a) MANDATORY COVERAGE IF STATE PROVIDES DRUG COVERAGE.—

(1) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69), by striking ''and'' at the end;

(B) in paragraph (70), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70) the following new paragraph:

''(71) in the case of a State plan that provides medical assistance for prescribed drugs under section 1905(a)(12), provide for such medical assistance to include coverage for any drug, biological product, or insulin prescribed for a child (including any such drug, product, or insulin that is self-administered) who—

''(A) is eligible for medical assistance under the State plan (including a child who is eligible only on the basis of paragraph (10)(A)(i)(VIII));

''(B) is a current or former participant in a research study conducted or funded (in whole or in part) by the National Institutes of Health; and

''(C) satisfies the requirements of subparagraphs (B), (C), and (D) of subsection (dd)(1).''.

(2) MANDATORY COVERAGE OF DRUGS OF RESEARCH STUDY CHILD PARTICIPANTS WHO ARE NOT OTHERWISE ELIGIBLE FOR MEDICAID IF THE STATE OFFERS DRUG COVERAGE.—

(A) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396b(a)(10)(A)(i)) is amended—

(i) in subclause (VI), by striking ''or'' at the end;

(ii) in subclause (VII), by adding ''or'' at the end; and

(iii) by adding at the end the following new subclause:

''(VIII) who are research study child participants described in subsection (dd)(1), but only if the medical assistance made available by the State includes prescribed drugs under section 1905(a)(12),''.

(B) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd)(1) Research study child participants described in this subsection are individuals who—

''(A) are not otherwise eligible for medical assistance under the State plan;

''(B) have not attained age 19;

''(C) have been certified by a physician participating in a research study conducted or funded (in whole or in part) by the National Institutes of Health to be current or former participants in such trial or study who have a specific disease or condition that—

''(i) is or has been successfully treated under such trial or study with a prescribed use of a drug, biological product, or insulin that is not approved under the Federal Food, Drug, and Cosmetic Act; and

''(ii) is likely to continue to be successfully treated with such drug, product, or insulin; and

''(D) do not have other health coverage for such drug, product, or insulin.

''(2) A State shall redetermine not less than every 2 years the eligibility of an individual for medical assistance who is eligible solely on the basis of subsection (a)(10)(A)(i)(VIII).

''(3) For purposes of this subsection and paragraphs (10)(A)(i)(VIII) and (71) of subsection (a), the term 'research study' means a clinical study, including an observational (or natural history) study, or a clinical trial, to test an experimental therapy.''.

(C) MEDICAL ASSISTANCE LIMITED TO COVERAGE OF THE RESEARCH OR OBSERVATIONAL TRIAL DRUGS, BIOLOGICAL PRODUCT, OR INSULIN.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(i) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(ii) by inserting '', and (XV) the medical assistance made available to a research study child participant described in subsection (dd)(1) who is eligible for medical assistance solely on the basis of subparagraph (A)(10)(i)(VIII) shall be limited to medical assistance for a drug, biological product, or insulin that is prescribed for the participant as a result of participation in such trial or study (including any such drug, product, or insulin that is self-administered)'' before the semicolon.

(D) CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b)(f)(4)) is amended in the matter preceding subparagraph (A) by inserting ''1902(a)(10)(A)(i)(VIII),'' after ''1902(a)(10)(A)(i)(VII),''.

(b) PRESUMPTIVE ELIGIBILITY.—Section 1920B of the Social Security Act (42 U.S.C. 1396r–1b) is amended—

(1) in the section heading, by inserting ''OR RESEARCH STUDY CHILD PARTICIPANTS'' after ''PATIENTS'';

(2) in subsection (a), by inserting ''or a child who is eligible for medical assistance under the State plan (including a child who is eligible only on the basis of section 1902(a)(10)(A)(i)(VIII) but subject to the limitation on medical assistance for such a child under clause (XV) of the matter following section 1902(a)(10)(G)), is a current or former participant in a research study conducted or funded (in whole or in part) by the National Institutes of Health, and satisfies the requirements of subparagraphs (B), (C), and (D) of section 1902(dd)(1)'' after ''patients)'';

(3) in subsection (b)(1)(A), by inserting ''or subsection (a)'' after ''1902(aa)''; and

(4) in subsection (d), in the flush language following paragraph (2), by striking ''for purposes of clause (4) of the first sentence of section 1905(b)'' and inserting ''for purposes of the first sentence of section 1905(b) (and, in the case of medical assistance furnished to an individual described in section 1902(aa), for purposes of clause (4) of such sentence)''.

(c) NOTICE OF MEDICAID COVERAGE FOR RESEARCH STUDY CHILD PARTICIPANTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Director of the Institutes of Health and State Medicaid Directors, shall—

(A) develop a written notice for child participants in research studies (as defined in section 1902(dd)(3) of the Social Security Act, as added by subsection (a)(2)(B)) conducted or funded (in whole or in part) by the National Institutes of Health who are likely to eligible for medical assistance for a drug, biological product, or insulin prescribed for such participants as a result of participation in such a study (including any such drug, product, or insulin that is self-administered) in accordance with paragraph (10)(A)(i)(VIII) or (71) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) (as added by subsection (a)), of the availability of such assistance; and

(B) establish procedures for making such notice available to the child participants through physicians participating in such research studies or such other means as the Secretary determines appropriate.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2008 and each fiscal year thereafter such sums as may be necessary to carry out this subsection.

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for items and services furnished on or after the date of enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated.

Mr. CASEY. Mr. President, I rise today to speak about a critical health issue affecting thousands of our children every day but about which few people have ever even heard. All across this country, thousands of children suffer from rare genetic diseases called ''orphan diseases,'' thus named because

of the relatively small number of people these diseases strike.

An orphan disease is defined as affecting fewer than 200,000 people. The National Institutes of Health, NIH, estimate that there are approximately 6,000 of these orphan diseases, affecting about 25 million Americans on the whole. Most of these rare diseases are genetic and many affect children.

Last spring, I met with a group of mothers who shared their struggles and frustrations in getting ongoing and consistent treatment for their children, each of whom suffers from an orphan disease. Many of these parents had been able to enroll their children in clinical trials at the NIH and had found experimental treatments for their children that had proven extremely successful. The doctors at NIH do miraculous work in finding treatments for children with rare genetic diseases. But oftentimes, when the trial ends, these children and parents are left on their own, with no access to the previously free and effective treatment that their children were getting.

Imagine if you can, for one moment, the predicament of these children and their parents? After months and sometimes years of first not knowing what was ailing their sick children, desperately seeking help, then finally getting a diagnosis, only to find out that there was no FDA approved treatment. Then after searching for some kind of treatment and then finally, finally finding—and being admitted to—a clinical trial on medication that miraculously gave their children the ability to function like other kids—to be able to play soccer and go to school and have friends over and just have the energy to be a child. For all of us who are parents, you can imagine the joy of seeing your child finally alleviated from the suffering he or she has been going through, finally able to enjoy him- or herself and do all the things that children are supposed to do.

Then imagine, if you can, what it would be like to suddenly have that taken away. The clinical trial ends, or funding for the trial ends. Suddenly, you no longer have access to this drug that your child needs to be able to function, to do their homework, eat well and have fun. If it is a drug that has not been approved by the Food and Drug Administration or specifically approved for a child's particular disease, then insurance companies typically will not cover it because the treatment is considered ''experimental.'' In some cases, a drug has been approved for other uses than the orphan disease, known as ''off-label'' use. If a family has enough insurance, and there is off-label FDA approval, sometimes families can get coverage of the drugs. If not, the resulting cost to families is astronomical—ranging anywhere from $10,000 to $30,000 per month.

This is what happened to Nino Todaro, a young boy from Newville, Pennsylvania, and that is why Senator SPECTER and I are today introducing Nino's Act. Nino suffers from Periodic Fever Syndrome, an unpredictable genetic condition that can cause uncontrolled inflammation throughout the body. When this disease acts up, Nino has days where he cannot do much more than lie on the couch. Left untreated, this condition could leave Nino unable to walk and even be life-threatening. Fortunately Nino found help through an NIH clinical trial, but funding ran out last year. The drug that returned Nino to a joyous soccer-playing kid was approved for arthritis and Crohn's disease, but not Periodic Fever Syndrome. Facing costs of $12,000 a month, and initial rejections from their insurance company, Nino's parents turned to Congress.

Nino's Act will allow children to transition out of successful treatment in NIH studies without a gap in treatment. There are thousands of children like Nino across this country who desperately need the continuity of ongoing successful treatment for their rare disorders. These are children who have been very ill, sometimes incapacitated, and have been able to resume normal childhoods through successful drug treatment. Parents advocating for their children understandably refuse to accept that their children have no choice but to regress because their insurance company will not cover humongous medical bills that no middle class family could even begin to absorb.

No parent should ever have to face a situation in which the care they need for their seriously ill child is too expensive or held up by regulatory red tape. It is unthinkable to me that any ill child in this country, the richest nation on earth, with all our medical advancements, should ever be denied medical treatment that is available and proven successful. Our bill will give these children and their parents peace of mind that when a study ends, their children's successful ongoing treatment will not be threatened. To address this, Nino's Act will require Medicaid to cover the cost of treatment of in the event that a child's health insurance does not.

This is the least we can do for these children and families. No child for whom treatment is available should have to forego that treatment to the serious detriment of their health. That is just plain wrong. Senator SPECTER and I share the belief that ensuring ongoing treatment for children with rare disorders is something this Congress should get behind. I urge my colleagues to support Nino's Act and I will work hard for its passage. My hope is it will go a long way toward ensuring that children with orphan diseases can get the successful treatment they deserve, freeing them and their families to focus on what is truly important—keeping them well, and living out happy and productive lives.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. KERRY, and Ms. MURKOWSKI):

S. 2630. A bill to amend the Public Health Service Act to establish a Federal grant program to provide increased health care coverage to and access for uninsured and underinsured workers and families in the commercial fishing industry, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commercial Fishing Industry Health Care Coverage Act of 2008''.

SEC. 2. GRANTS FOR QUALIFIED COMMERCIAL FISHING INDUSTRY HEALTH CARE COVERAGE DEMONSTRATION PROGRAMS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding at the end the following new section:

''SEC. 320B. GRANTS FOR QUALIFIED COMMERCIAL FISHING INDUSTRY HEALTH CARE COVERAGE DEMONSTRATION PROGRAMS.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The Secretary, through the Health Resources and Services Administration, shall establish a grant program (in this section referred to as the 'grant program') for the purpose of assisting commercial fishing States to establish, or strengthen existing, programs to expand health care coverage and access for uninsured or underinsured workers and their families in the commercial fishing industry.

''(2) TYPES OF GRANTS.—Under the grant program, the Secretary shall provide—

''(A) program planning grants under subsection (b) for commercial fishing States and organizations within such States; and

''(B) implementation and administration grants under subsection (c) for no more than 15 commercial fishing States.

''(3) APPLICATION REQUIRED.—No grant may be awarded under this section except pursuant to an application that is made in such form and manner, and containing such information, as the Secretary may require.

''(b) PROGRAM PLANNING GRANTS.—

''(1) IN GENERAL.—Under the grant program the Secretary may award grants to one or more commercial fishing States (or to organizations with a history of active involvement in the commercial fishing industry in such a State, including knowledge of economic and social aspects of such industry), not to exceed $200,000 for each year and for no more than two years, to conduct initial research and planning for the development of a qualified health care coverage program in the State. Any grantee under this subsection shall—

''(A) conduct a demographic survey of the State's commercial fishing industry and such industry's health care needs; and

''(B) develop a strategic plan, including a detailed financial plan, for implementation of a qualified health care coverage program within the State.

''(2) CONSULTATION WITH STATES.—Before awarding a grant under this subsection to an organization, the Secretary shall consult with States where the organization is located in order to assist in a determination as to whether the organization—

''(A) has the necessary familiarity with and knowledge of the commercial fishing industry in the State to fulfill the purposes of the grant; and

''(B) has a history of fraudulent or abusive practices that would disqualify the organization from carrying out the grant.

''(3) ACTIONS FOLLOWING COMPLETION OF PLANNING GRANTS.—Based on the research findings, financial plan, and other recommendations developed by the State or organization under paragraph (1), a State may submit an application for program implementation and administration grants under subsection (c).

''(c) IMPLEMENTATION AND PROGRAM ADMINISTRATION GRANTS.—

''(1) IN GENERAL.—Under the grant program, subject to the succeeding provisions of this subsection, the Secretary may award the following grants to commercial fishing States:

''(A) INITIAL IMPLEMENTATION GRANTS.—A grant, not to exceed $2,000,000 for each year and for no more than two years, for initial implementation of a qualified health care coverage program.

''(B) PROGRAM ADMINISTRATION GRANTS.—A grant, not to exceed $3,000,000 for each year and for no more than five years, for administration of a qualified health care coverage program.

''(C) CONTINUED ADMINISTRATION GRANTS.—A grant, not to exceed $3,000,000 for each year, for continued administration of a qualified health care coverage program in a State that has been awarded administration grants for 5 years under subparagraph (B) and that has satisfactorily administered such program using the funds provided by such grants for at least 5 years, if the economic conditions of the fishing industry in the program's service area (or the condition of fish stocks that are important to the fishing industry in such area) jeopardize the ability of the program to continue providing affordable health care coverage.

A grant may be made for a qualified health care coverage program under subparagraph (A) or (B) regardless of whether or not the program was developed with a program planning grant under subsection (b) or was implemented under a grant under subparagraph (A), respectively, and regardless of whether the program was developed or initially implemented before the date of the enactment of this section.

''(2) ELIGIBILITY REQUIREMENTS.—The Secretary may not award a grant under this subsection to a commercial fishing State for implementation or administration of a health care coverage program unless—

''(A) the State demonstrates that the program—

''(i) is a qualified health care coverage program and enrolls fishing industry members and their families if they were uninsured or underinsured; and

''(ii) requires Federal funding for its operation; and

''(B) the State provides assurances satisfactory to the Secretary that—

''(i) if the program is an expansion of an existing health care coverage program, the State will use the grant funding to expand the enrolled population of uninsured or underinsured commercial fishing industry members and their families, or modify coverage to comply with qualified health care coverage, under the program and to supplement, and not supplant, State provided funding for such program; or

''(ii) if the program is a new qualified health care coverage program, the State will ensure the program's continued success through the implementation of appropriate financial and consumer protection regulations, controls, licensing, or oversight policies, including (as determined by the State) any of the following:

''(I) Protection against insolvency, fraud and abuse.

''(II) State-based stop-loss protection.

''(III) Reinsurance.

''(IV) Receivership/liquidation protection against insolvency for individuals.

''(V) Another demonstration of State financial commitment.

''(3) REQUIREMENT OF MATCHING FUNDS.—

''(A) IN GENERAL.—A grant may be made under this subsection only if the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided in the grant.

''(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(4) CONTRACTING AUTHORITY.—

''(A) IN GENERAL.—A commercial fishing State may enter into a contract with one or more eligible non-profit organizations or companies for the purpose of conducting activities under an implementation or administration grant under this subsection and may not enter into such a contract with an organization or company which is not eligible under subparagraph (C).

''(B) SUBCONTRACTING ARRANGEMENTS.—A contractor described in subparagraph (A) may subcontract with one or more eligible non-profit organizations or companies for the purpose of conducting activities under such an implementation or administration grant, if the State approves such subcontracting arrangements.

''(C) ELIGIBILITY STANDARDS.—The Secretary shall issue regulations establishing eligibility standards for organizations and companies under this paragraph. Such standards shall include requirements that States review whether prospective contractors or subcontractors under this paragraph—

''(i) have a history of fraudulent or abusive practices that would disqualify them from participating in a contract or subcontract;

''(ii) have the capability and experience to assist in the management of a qualified health care coverage program; and

''(iii) in the case of commercial fishing organizations, have an appropriate level of familiarity with, and knowledge of, the commercial fishing industry.

''(d) DEFINITIONS.—For purposes of this section:

''(1) COMMERCIAL FISHING STATE.—The term 'commercial fishing State' means a State (as defined in section 2(f)) with a significant commercial fishing population or a significant commercial fishing industry. The Secretary shall accept a State's self-certification that it is a commercial fishing State if the State demonstrates to the Secretary that—

''(A) such self-certification is based on consultation by the State with local organizations familiar with the commercial fishing industry in the State; and

''(B) the State has a significant commercial fishing population or a significant commercial fishing industry.

''(2) COMMERCIAL FISHING INDUSTRY MEMBER.—The term 'commercial fishing industry member' means a fisherman, crewmember, boat owner, captain, shore side business owner, employee of a company that provides shore side support, harvester, or other individual performing commercial fishing industry-related work, if more than half of such individual's income derives from such work at the time the individual enrolls in a qualified health care coverage program.

''(3) QUALIFIED HEALTH CARE COVERAGE PROGRAM.—The term 'qualified health care coverage program' means a program that provides qualified health care coverage to commercial fishing industry members and their families consistent with the following:

''(A) Eligibility for enrollment of such members and families is only restricted by capacity, based on a first come, first served basis when space is limited, and health status related factors (as defined in section 2702), age, and gender may not be used as a basis for determining eligibility.

''(B) The program does not include any preexisting condition exclusion (as defined in section 2701) or any coverage elimination rider that permanently excludes from coverage an existing medical condition.

''(C) Premium rates under the program are computed based on a community rate, and may be adjusted only for income and family size.

''(4) QUALIFIED HEALTH CARE COVERAGE.—The term 'qualified health care coverage' means coverage that meets any of the following conditions:

''(A) FEHBP COVERAGE.—The coverage is actuarially equivalent to the coverage provided under the health benefits plan, under chapter 89 of title 5, United States Code, which has the largest enrollment, either in the United States or in the State involved.

''(B) STATE EMPLOYEES COVERAGE.—The coverage is actuarially equivalent to the coverage provided under the health benefits plan, that is offered by the State to State government employees, which has the largest enrollment of such plans in the State.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purpose of carrying out this section—

''(1) $5,000,000 for fiscal year 2009;

''(2) $5,000,000 for fiscal year 2010;

''(3) $10,000,000 for fiscal year 2011;

''(4) $10,000,000 for fiscal year 2012; and

''(5) $20,000,000 for fiscal year 2013.''.

Mr. STEVENS. Mr. President, I come to the floor to support the Commercial Fishing Industry Healthcare Coverage Act of 2008. My good friend Senator KENNEDY and I, along with Senators KERRY and MURKOWSKI, are introducing this bill to improve healthcare options for our Nation's fishermen and fishing families.

Few things are more Alaskan than fishing. Long before Alaska was even a U.S territory, our people were fishing for their livelihood. The first Alaskans, Alaska Natives depended on subsistence fishing, as many do today. Russian settlers built salteries to preserve their catch through our long, harsh winters. In the 1800s, the first canneries were built in Sitka and Klawock, marking the birth of Alaska's modern commercial fishing industry.

Today, Alaska's seafood industry is the State's largest private employer and a fundamental part of Alaskan culture. All around our State, from Ketchikan, at the Southern end of the panhandle, to Kotzebue, above the Arctic Circle, fishermen brave the elements so all Americans may enjoy the bounty of Alaskan waters. Their work is vital to the economies of numerous communities in our State.

While Alaskans have fishing in their blood, skyrocketing costs have made it increasingly difficult for these hard-working men and women to earn a living. One of the major challenges our commercial fishermen face is obtaining affordable healthcare.

The problem is not unique to my State. Lack of health coverage is a dilemma for fishermen in other coastal States. Surveys conducted in different parts of the country show fishing families are significantly more likely to be uninsured than other Americans.

The commercial fishing industry produces billions of dollars for the U.S. economy each year. Despite their contributions, the seasonal and dangerous nature of their profession bars many commercial fishermen from obtaining health insurance; most work for themselves or for small employers. Fishermen are forced to pay high premiums and deductibles, which can effectively put health insurance out of reach.

In my State, fishermen face additional complications when looking for affordable health insurance. A study by the United Fishermen of Alaska found that our fishermen are more likely to work and live in communities without a hospital. Also, fewer private insurance companies offer individual or small business medical coverage in Alaska than in other States. And, most fishermen simply cannot afford the rates charged by these providers.

That lack of basic health services impacts everyone in our fishing fleet, from our older fishermen, who may be most in need of health coverage, to the younger generation of fishermen, who find the lack of affordable healthcare a barrier to entering the profession.

As one fisherman from Juneau put it:

I've applied with two different major health insurance providers, and both have declined me coverage because of my occupation . . . living and working without health insurance is like living on borrowed time. I constantly feel I am pushing my luck, and a single illness or injury could mean bankruptcy for me.

With the high cost of individual health insurance and the lack of proximity to healthcare facilities in Alaska families are less likely to seek preventive care, resulting in medical emergencies that could have been avoided. When uninsured fishermen end up in emergency rooms with serious diseases and injuries, taxpayers often absorb the costs.

Our bill is inspired by the successful fishermen's healthcare plan adopted by Senator KENNEDY's home State of Massachusetts, which has proven that health insurance can be made affordable for fishing families. This legislation will establish a grant program to help States and fishing organizations create and administer group health insurance programs for fishermen and fishing families.

Americans are consuming more and more seafood as they discover its great taste and considerable health benefits. We cannot forget where these fish come from. They come from the labor of men and women working up and down the coasts of this country, many struggling to earn a living and preserve a tradition that has spanned generations.

This measure would help put affordable medical care within their reach. I encourage my fellow Senators to support the bill.

By Mrs. FEINSTEIN (for herself, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. VOINOVICH, and Mr. WHITEHOUSE):

S. 2631. A bill to award a congressional gold medal to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today with my good friend and colleague, Senator MCCONNELL, to introduce the Aung San Suu Kyi Congressional Gold Medal Act of 2008.

We are proud to be joined by 73 of our colleagues in sponsoring this measure to award the Congressional Gold Medal to a woman who has inspired us all with her commitment to nonviolence, democracy, human rights, and the rule of law for the people of Burma. On December 17, 2007, the House voted 400–0 to award Suu Kyi this honor and we urge the Senate to promptly follow suit.

Last September we witnessed the largest democratic demonstrations in Burma in almost 20 years. Tens of thousands of Burmese citizens took to the streets in peaceful demonstrations to speak out against the country's oppressive military regime, and to cry out for democracy.

I watched these courageous people with a deep sense of admiration and respect.

Led by respected Buddhist monks, the people of the ''Saffron Revolution'' called on the military junta to release all political prisoners, including Nobel Peace Prize Laureate Aung San Suu Kyi, and engage in a true dialogue on national reconciliation. Yet, as it had in the past, the military junta responded to the recent peaceful protests with violence and bloodshed. Soldiers used brutal force to break up the protests, beating and sometimes killing innocent civilians.

No amount of force, however, can crush the spirit of Aung San Suu Kyi and her peaceful quest for democracy and human rights. Indeed, she is a woman of unrivaled courage. In the face of threats, intimidation, harassment, and an assassination attempt, she has never wavered from her principles and continues to support national reconciliation for all the people of Burma.

By introducing this legislation, we seek not only to honor a remarkable woman who embodies the values and standards of the Congressional Gold Medal, but also to raise our voices once again in support of her cause which is our cause: a free and democratic Burma.

By now, her story is well known. Aung San Suu Kyi was born on June 19, 1945, in Rangoon to Aung San, commander of the Burma Independence Army, and Ma Khin Kyi. In August 1988, Suu Kyi, in her first political action, sent an open letter to the military-controlled government, asking for free, open and multi-party elections. The following month, she founded the National League for Democracy, which remains dedicated to a policy of nonviolence and civil disobedience. Suu Kyi was named its general-secretary.

Recognizing the threat Suu Kyi posted to their grip on power, the Burmese junta had her placed under house arrest and held without charges or trial. Yet, despite the best efforts of the military junta to suppress the growing democratic movement, in 1990 the National League for Democracy won 82 percent of the seats in parliamentary elections. But the junta annulled the election results and refused to release Suu Kyi.

Since then, the Burmese regime—now called the State Peace and Development Council—has refused to engage in a national dialogue with Suu Kyi and the democratic opposition, and intensified its campaign of oppression and abuse. In 2003, pro-government thugs attempted to assassinate Su Kyi and other members of the National League for Democracy as they rode in a motorcade in the northern city of Depayin.

Last May, the military junta renewed her house arrest for another year. In fact, for most of the past 18 years, she has remained imprisoned or under house arrest, alone without

minimal contact with the outside world.

Yet, as in 1990, the regime has once again failed to stamp out Suu Kyi's message of democracy, human rights, non-violence and the rule of law. She continues to inspire not only the people of Burma but the entire world. Indeed, Suu Kyi's commitment to freedom and democracy has been widely recognized.

In 1990, Suu Kyi was awarded the Sakharov Prize for Freedom of Thought by the European Parliament. The prize honors efforts on behalf of human rights and fundamental freedoms, and in opposition to injustice and oppression. It is named for the late Andrei Sakharov, the Soviet dissident and Nobel Peace Prize winner.

In 1991, Suu Kyi was awarded the Nobel Peace Prize for her commitment to nonviolence and support for freedom and democracy for Burma. She was not allowed to attend the ceremony. In its recommendation, the Nobel Committee wrote:

In the good fight for peace and reconciliation, we are dependent on persons who set examples, persons who can symbolize what we are seeking and mobilize the best in us. Aung San Suu Kyi is just such a person. She unites deep commitment and tenacity with a vision in which the end and the means form a single unit. Its most important elements are: democracy, respect for human rights, reconciliation between groups, non-violence, and personal and collective discipline.

Suu Kyi donated her $1.3 million in prize money to establish a health and education fund for Burma. She is the world's only imprisoned Nobel Peace Prize recipient.

In 2000, Suu Kyi was awarded the Presidential Medal of Freedom, the Nation's highest civilian award, by President Bill Clinton.

Last year, 45 U.S. Senators signed a letter to United Nations Secretary General Ban ki-Moon urging him to get personally involved in pressing for Suu Kyi's release.

In letter addressed to the State Peace and Development Council, a distinguished group of 59 former heads of state—including former Filipino president Corazon Aquino, former Czech president Vaclav Havel, former British prime minister John Major and former Presidents Bill Clinton, Jimmy Carter, and George H.W. Bush—called for the regime to release Aung San Suu Kyi. They correctly noted that ''Aung San Suu Kyi is not calling for revolution in Burma, but rather peaceful, nonviolent dialogue between the military, National League for Democracy, and Burma's ethnic groups.''

It is only fitting, that Congress join this international chorus in support of Aung San Suu Kyi and award her the Congressional Gold Medal.

As a U.S. Senator, I have worked hard to raise awareness about the situation in Burma and pass legislation to put pressure on the military junta to release Suu Kyi and begin a true dialogue on national reconciliation. In 1997, former Senator Bill Cohen and I authored legislation requiring the President to ban new U.S. investment in Burma if he determined that the Government of Burma had physically harmed, rearrested or exiled Aung San Suu Kyi or committed large-scale repression or violence against the Democratic opposition. President Clinton issued the Executive Order in 1997 and the ban remains on the books today.

In 2003, after the regime attempted to assassinate Aung San Suu Kyi, Senator MCCONNELL and I introduced the Burmese Freedom and Democracy Act of 2003 which placed a complete ban on imports from Burma. It allowed that ban to be renewed one year at a time for up to 3 years. It was signed into law and has been renewed one year at a time for each of the past 4 years.

Last year, the women of the United States Senate came together to form the Women's Caucus on Burma to express our solidarity with Suu Kyi, call for her immediate release, urge the United Nations to pass a binding resolution on Burma. At our inaugural event, we were pleased to be joined by First Lady Laura Bush who added her own voice to those calling for peace and democracy in Burma. Our message is clear: We will not remain silent, we will not stand still until Aung San Suu Kyi and all political prisoners are released and democratic government is restored in Burma.

This legislation is but one small step on the path to that goal. I remain hopeful that the military regime will heed the will of its people and the international community and we will be able to present Aung San Suu Kyi with this honor in person.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds as follows:

(1) Aung San Suu Kyi was born on June 19, 1945, in Rangoon, Burma, to Aung San, commander of the Burma Independence Army, and Ma Khin Kyi.

(2) On August 15, 1988, Ms. Suu Kyi, in her first political action, sent an open letter to the military controlled government asking for free, open, and multi-party elections.

(3) On September 24, 1988, the National League for Democracy (NLD) was formed, with Ms. Suu Kyi as the general-secretary, and it was, and remains, dedicated to a policy of non-violence and civil disobedience.

(4) Ms. Suu Kyi was subsequently placed under house arrest, where she remained for the next 6 years—without being charged or put on trial—and has been imprisoned twice more; she currently remains under house arrest.

(5) Despite her detention, the National League for Democracy won an open election with an overwhelming 82 percent of the vote—which the military junta nullified.

(6) While under house arrest, she has bravely refused offers to leave the country to continue to promote freedom and democracy in Burma.

(7) For her efforts on behalf of the Burmese people, she has been awarded the Sakharov Prize for Freedom of Thought in 1990, the Presidential Medal of Freedom in 2000, and the Nobel Peace Prize in 1991.

(8) Ms. Suu Kyi continues to fight on behalf of the Burmese people, even donating her $1.3 million from her Nobel Prize to establish a health and education fund for Burma.

(9) She is the world's only imprisoned Nobel Peace Prize recipient, spending more than 12 of the past 17 years under house arrest.

(10) Despite an assassination attempt against her life, her prolonged illegal imprisonment, the constant public vilification of her character, and her inability to see her children or to see her husband before his death, Ms. Suu Kyi remains committed to peaceful dialogue with her captors, Burma's military regime, and Burma's ethnic nationalities towards bringing democracy, human rights, and national reconciliation to Burma.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

By Mr. BOND:

S. 2632. A bill to ensure that the Sex Offender Registration and Notification Act is applied retroactively; to the Committee on the Judiciary.

Mr. BOND. Mr. President, today, I introduce legislation to close a series of statutory loopholes setting free convicted sex offenders who failed to register and notify their communities of

their status as required by Federal law. I was outraged recently to learn this was going on and I am sure you will agree that we must end this injustice. I urge my colleagues to join me in support of this legislation.

Under the Sex Offender Registration and Notification Act, SORNA, passed as part of the Adam Walsh Child Protection and Safety Act of 2006, sex offenders are required to register with local authorities and notify those authorities when they move or change jobs. However, judges in Michigan and Pennsylvania have freed sex offenders arrested for failing to register because of doubts over whether the statute applies to sex offenses committed prior to SORNA's implementation. A Missouri judge freed a noncomplying sex offender questioning whether provisions extending Federal jurisdiction operated retroactively.

In the Missouri case, a Federal judge released convicted sex-offender Terry L. Rich after his arrest for failure to register as a sex offender upon moving to Kansas City 20 months ago. Mr. Rich arrived after a prison stint in Iowa for failing to register there based on his previous convictions for felony sexual abuse of a child, kidnaping, indecency, child molestation and felony sexual battery of a young girl. SORNA extends Federal jurisdiction to State sex offenders by applying to those who ''travel'' in interstate commerce, and Mr. Rich seemed to qualify by moving from Iowa to Missouri in March 2006. However, the judge ruled that since Mr. Rich ''traveled'' prior to SORNA's enactment in July 2006, he was not covered by the law's present tense ''travel'' requirement.

The Pennsylvania court freed persons hiding convictions of sexual assault, rape, statutory rape, indecent assault and corruption of the morals of a 6-year-old girl. The Michigan court freed a sex offender who failed to register after convictions of first-degree rape and sodomy.

The bill I propose closes the loopholes cited by the Missouri, Michigan, and Pennsylvania courts to ensure that SORNA's registration requirement applies to sex offenders irrespective of the date of their offense or date of interstate travel. These are simple fixes to the code, but vital to ensure that no more convicted sex offenders can hide in our neighborhoods.

By Mr. REID:

S. 2636. A bill to provide needed housing reform; read the first time.

S. 2636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreclosure Prevention Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—MODIFICATIONS ON USE OF QUALIFIED MORTGAGE BONDS

SEC. 101. MODIFICATIONS ON USE OF QUALIFIED MORTGAGE BONDS; TEMPORARY INCREASED VOLUME CAP FOR CERTAIN HOUSING BONDS.

(a) USE OF QUALIFIED MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING LOANS.—Section 143(k) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULES FOR SUBPRIME REFINANCINGS.—

''(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

''(B) SPECIAL RULES.—In applying this paragraph to any case in which the proceeds of a qualified mortgage issue are used for any refinancing described in subparagraph (A)—

''(i) subsection (a)(2)(D)(i) shall be applied by substituting '12-month period' for '42-month period' each place it appears,

''(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

''(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

''(C) QUALIFIED SUBPRIME LOAN.—The term 'qualified subprime loan' means an adjustable rate single-family residential mortgage loan originated after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

''(D) TERMINATION.—This paragraph shall not apply to any bonds issued after December 31, 2010.''.

(b) INCREASED VOLUME CAP FOR CERTAIN BONDS.—

(1) IN GENERAL.—Subsection (d) of section 146 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.—

''(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $10,000,000,000 multiplied by a fraction—

''(i) the numerator of which is the population of such State (as reported in the most recent decennial census), and

''(ii) the denominator of which is the total population of all States (as reported in the most recent decennial census).

''(B) SET ASIDE.—

''(i) IN GENERAL.—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified purposes.

''(ii) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(I) the issuance of exempt facility bonds used solely to provide qualified residential rental projects, or

''(II) a qualified mortgage issue (determined by substituting '12-month period' for '42-month period' each place it appears in section 143(a)(2)(D)(i)).''.

(2) CARRYFORWARD OF UNUSED LIMITATIONS.—Subsection (f) of section 146 of such Code is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR INCREASED VOLUME CAP UNDER SUBSECTION (d)(5).—

''(A) IN GENERAL.—No amount which is attributable to the increase under subsection (d)(5) may be used—

''(i) for a carryforward purpose other than a qualified purpose (as defined in subsection (d)(5)), and

''(ii) to issue any bond after calendar year 2010.

''(B) ORDERING RULES.—For purposes of subparagraph (A), any carryforward of an issuing authority's volume cap for calendar year 2008 shall be treated as attributable to such increase to the extent of such increase.''.

(c) ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Clause (ii) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking ''shall not include'' and all that follows and inserting ''shall not include—

''(I) any qualified 501(c)(3) bond (as defined in section 145), or

''(II) any qualified mortgage bond (as defined in section 143(a)) or qualified veterans' mortgage bond (as defined in section 143(b)) issued after the date of the enactment of this subclause and before January 1, 2011.''.

(2) CONFORMING AMENDMENT.—The heading for section 57(a)(5)(C)(ii) is amended by striking ''QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this title.

TITLE II—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

SEC. 201. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.

(a) DIRECT APPROPRIATIONS.—There shall be appropriated out of any money in the Treasury not otherwise appropriated for the

fiscal year 2008, $4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed homes.

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

(1) IN GENERAL.—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development.

(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this title.

(3) CRITERIA.—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on the following factors:

(A) The number and percentage of home foreclosures in each State or unit of general local government.

(B) The number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government.

(C) The number and percentage of homes in default or delinquency in each State or unit of general local government.

(4) DISTRIBUTION.—Amounts appropriated or otherwise made available to States and units of general local government under this section shall be distributed according to the funding formula required under paragraph (1) not later than 30 days after the establishment of such formula.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to redevelop abandoned and foreclosed homes.

(2) PRIORITY.—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; or

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

(3) ELIGIBLE USES.—

(A) IN GENERAL.—Amounts made available under this section may be used to—

(i) make grants, loans, and other financing mechanisms to community development financial institutions (as such term is defined under section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5))), national intermediaries, and nonprofit housing or community development organizations and others to purchase and rehabilitate homes that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes;

(ii) establish financing mechanisms for redevelopment of foreclosed upon homes, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(iii) purchase and rehabilitate homes that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes;

(iv) establish land banks for homes that have been foreclosed upon; and

(v) demolish blighted structures.

(B) LIMITATION.—Any funds used under this section for the purchase of an abandoned or foreclosed upon home shall be at a cost equal to or less than the appraised value of the home based on the most up-to-date appraisal, as such appraisal is defined by the Secretary.

(d) RULE OF CONSTRUCTION.—Amounts appropriated or otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974.

(e) WAIVER AUTHORITY.—

(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of such funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), in order to expedite or facilitate the use of such funds.

(2) LOW AND MODERATE INCOME REQUIREMENT.—Notwithstanding the authority of the Secretary under paragraph (1), all of the funds appropriated or otherwise made available under this section shall be used with respect to persons whose income does not exceed 120 percent of area median income.

(f) EMERGENCY DESIGNATION.—The amounts appropriated under this title are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

TITLE III—HOUSING COUNSELING RESOURCES

SEC. 301. HOUSING COUNSELING RESOURCES.

There shall be appropriated out of any money in the Treasury not otherwise appropriated, for an additional amount for the ''Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation'' $200,000,000,000, to remain available until September 30, 2008, for foreclosure mitigation activities under the terms and conditions contained in the second paragraph under the heading ''Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation'' of Public Law 110-161.

TITLE IV—HELPING FAMILIES SAVE THEIR HOME IN BANKRUPTCY ACT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Helping Families Save Their Homes in Bankruptcy Act of 2008''.

Subtitle A—Minimizing Foreclosures

SEC. 411. SPECIAL RULES FOR MODIFICATION OF LOANS SECURED BY RESIDENCES.

(a) IN GENERAL.—Section 1322(b) of title 11, United States Code, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

''(11) notwithstanding paragraph (2) and otherwise applicable nonbankruptcy law—

''(A) modify an allowed secured claim secured by the debtor's principal residence, as described in subparagraph (B), if, after deduction from the debtor's current monthly income of the expenses permitted for debtors described in section 1325(b)(3) of this title (other than amounts contractually due to creditors holding such allowed secured claims and additional payments necessary to maintain possession of that residence), the debtor has insufficient remaining income to retain possession of the residence by curing a default and maintaining payments while the case is pending, as provided under paragraph (5); and

''(B) provide for payment of such claim—

''(i) for a period not to exceed 30 years (reduced by the period for which the loan has been outstanding) from the date of the order for relief under this chapter; and

''(ii) at a rate of interest accruing after such date calculated at a fixed annual percentage rate, in an amount equal to the most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as of the applicable time set forth in the rules of the Board, plus a reasonable premium for risk; and''.

(b) CONFORMING AMENDMENT.—Section 1325(a)(5) of title 11, United States Code, is amended by inserting before ''with respect'' the following: ''except as otherwise provided in section 1322(b)(11) of this title,''.

SEC. 412. WAIVER OF COUNSELING REQUIREMENT WHEN HOMES ARE IN FORECLOSURE.

Section 109(h) of title 11, United States Code, is amended by adding at the end the following:

''(5) Paragraph (1) shall not apply with respect to a debtor who files with the court a certification that a foreclosure sale of the debtor's principal residence has been scheduled.''.

Subtle B—Providing Other Debtor Protections

SEC. 421. COMBATING EXCESSIVE FEES.

Section 1322(c) of title 11, the United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) to the extent that an allowed secured claim is secured by the debtor's principal residence, the value of which is greater than the amount of such claim, fees, costs, or charges arising during the pendency of the case may be added to secured debt provided for by the plan only if—

''(A) notice of such fees, costs or charges is filed with the court before the expiration of the earlier of—

''(i) 1 year after the time at which they are incurred; or

''(ii) 60 days before the conclusion of the case; and

''(B) such fees, costs, or charges are lawful, reasonable, and provided for in the underlying contract;

''(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for fees, costs, or charges described in paragraph (3) for all purposes, and any attempt to collect such fees, costs, or charges shall constitute a violation of section 524(a)(2) of this title or, if the violation occurs before the date of discharge, of section 362(a) of this title; and

''(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the principal residence of the debtor.''.

SEC. 422. MAINTAINING DEBTORS' LEGAL CLAIMS.

Section 554(e) of title 11, United States Code, is amended by adding at the end the following:

''(e) In any action in State or Federal court with respect to a claim or defense asserted by an individual debtor in such action that was not scheduled under section 521(a)(1) of this title, the trustee shall be allowed a reasonable time to request joinder or substitution as the real party in interest. If the trustee does not request joinder or substitution in such action, the debtor may proceed as the real party in interest, and no such action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest or on the ground that the debtor's claims were not properly scheduled in a case under this title.''.

SEC. 423. RESOLVING DISPUTES.

Section 1334 of title 28, United States Code, is amended by adding at the end the following: ''Notwithstanding any agreement for arbitration that is subject to chapter 1 of title 9, in any core proceeding under section 157(b) of this title involving an individual debtor whose debts are primarily consumer debts, the court may hear and determine the proceeding, and enter appropriate orders and judgments, in lieu of referral to arbitration.''.

SEC. 424. ENACTING A HOMESTEAD FLOOR FOR DEBTORS OVER 55 YEARS OF AGE.

(a) IN GENERAL.—Section 522(b)(3) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end and inserting the following:

''(D) if the debtor, as of the date of the filing of the petition, is 55 years old or older, the debtor's aggregate interest, not to exceed $75,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a principal residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a principal residence.''.

(b) EXEMPTION AUTHORITY.—Section 522(d)(1) of title 11, United States Code, is amended by inserting ''or, if the debtor is 55 years of age or older, $75,000 in value,'' before ''in real property''.

SEC. 425. DISALLOWING CLAIMS FROM VIOLATIONS OF CONSUMER PROTECTION LAWS.

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(10) the claim is subject to any remedy for damages or rescission due to failure to comply with any applicable requirement under the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any other provision of applicable State or Federal consumer protection law that was in force when the noncompliance took place, notwithstanding the prior entry of a foreclosure judgment.''.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''Mortgage Disclosure Improvement Act of 2008''.

SEC. 502. ENHANCED MORTGAGE LOAN DISCLOSURES.

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by inserting ''(A)'' before ''In the'';

(2) by striking ''a residential mortgage transaction, as defined in section 103(w)'' and inserting ''any extension of credit that is secured by the dwelling of a consumer'';

(3) by striking ''shall be made in accordance'' and all that follows through ''extended, or'';

(4) by striking ''If the'' and all that follows through the end of the paragraph and inserting the following:

''(B) In the case of an extension of credit that is secured by the dwelling of a consumer, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall—

''(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

''(ii) be furnished to the borrower not later than 7 business days before the date of consummation of the transaction, and at the time of consummation of the transaction, subject to subparagraph (D).

''(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall—

''(i) label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes'; and

''(ii) state the maximum amount of the regular required payments on the loan, based on the maximum interest rate allowed, introduced with the following language in conspicuous type size and format: 'Your payment can go as high as _____', the blank to be filled in with the maximum possible payment amount.

''(D) In any case in which the disclosure statement provided 7 business days before the date of consummation of the transaction contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking ''not less than $200 or greater than $2,000'' and inserting ''$5,000, such amount to be adjusted annually based on the consumer price index, to maintain current value''; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by striking ''only for'' and inserting ''for'';

(B) by striking ''section 125 or'' and inserting ''section 122, section 125,'';

(C) by inserting ''or section 128(b),''after ''128(a),''; and

(D) by inserting ''or section 128(b)'' before the period.

TITLE VI—INCENTIVES FOR BUSINESS

SEC. 601. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS; TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) 5-YEAR CARRYBACK OF CERTAIN LOSSES.—

''(i) TAXABLE YEARS ENDING DURING 2001 AND 2002.—In the case of a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.

''(ii) TAXABLE YEARS BEGINNING OR ENDING DURING 2006, 2007, AND 2008.—In the case of a net operating loss with respect to any eligible taxpayer (within the meaning of section 168(k)(1)(B)) for any taxable year beginning or ending during 2006, 2007, or 2008—

''(I) subparagraph (A)(i) shall be applied by substituting '5' for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting '4' for '2', and

''(III) subparagraph (F) shall not apply.''.

(b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

(1) IN GENERAL.—Section 56(d) of the of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) ADDITIONAL ADJUSTMENTS.—For purposes of paragraph (1)(A), in the case of an eligible taxpayer (within the meaning of section 168(k)(1)(B)), the amount described in clause (I) of paragraph (1)(A)(ii) shall be increased by the amount of the net operating loss deduction allowable for the taxable year under section 172 attributable to the sum of—

''(A) carrybacks of net operating losses from taxable years beginning or ending during 2006, 2007, and 2008, and

''(B) carryovers of net operating losses to taxable years beginning or ending during 2006, 2007, or 2008.''.

(2) CONFORMING AMENDMENT.—Subclause (I) of section 56(d)(1)(A)(i) of such Code is amended by inserting ''amount of such'' before ''deduction described in clause (ii)(I)''.

(c) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribes such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (a) shall apply to net operating losses arising in taxable years beginning or ending in 2006, 2007, or 2008.

(B) ELECTION.—In the case of an eligible taxpayer (within the meaning of section 168(k)(1)(B) of the Internal Revenue Code of 1986) with a net operating loss for a taxable year beginning or ending during 2006 or 2007—

(i) any election made under section 172(b)(3) of the Internal Revenue Code of 1986 may (notwithstanding such section) be revoked before November 1, 2008, and

(ii) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2008.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1995.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 450—DESIGNATING JULY 26, 2008, AS ''NATIONAL DAY OF THE COWBOY''

Mr. ENZI (for himself, Mr. BARRASSO, Mr. ALLARD, Mr. CRAIG, Mr. CRAPO, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. BINGAMAN, Mr. INHOFE, Mrs. MURRAY, Mr. REID, Mr. SALAZAR, Mr. STEVENS, Mr. MARTINEZ, and Mr. JOHNSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 450

Whereas pioneering men and women, recognized as ''cowboys'', helped establish the American West;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy spirit exemplifies strength of character, sound family values, and good common sense;

Whereas the cowboy archetype transcends ethnicity, gender, geographic boundaries, and political affiliations;

Whereas the cowboy is an excellent steward of the land and its creatures, who lives off of the land and works to protect and enhance the environment;

Whereas cowboy traditions have been a part of American culture for generations;

Whereas the cowboy continues to be an important part of the economy through the work of approximately 727,000 ranchers in all 50 of the United States that contribute to the economic well-being of nearly every county in the Nation;

Whereas annual attendance at professional and working ranch rodeo events exceeds 27,000,000 fans and rodeo is the 7th most-watched sport in the Nation;

Whereas membership and participation in rodeo and other organizations that promote and encompass the livelihood of a cowboy span every generation and transcend race and gender;

Whereas the cowboy is a central figure in literature, film, and music and occupies a central place in the public imagination;

Whereas the cowboy is an American icon; and

Whereas the ongoing contributions made by cowboys and cowgirls to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 26, 2008, as ''National Day of the Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. ENZI. Mr. President, I am proud to introduce a resolution today honoring the men and women known as ''cowboys.'' My late colleague, Senator Craig Thomas began the tradition of introducing a Senate resolution designating the fourth Saturday of July as the National Day of the Cowboy. I am so proud to carry on that tradition. The national day celebrates the history of cowboys in America and recognizes the important work today's cowboys are doing in the United States. The cowboy spirit is about honesty, integrity, courage, and patriotism, and cowboys are models of strong character, sound family values, and good common sense.

Cowboys were some of the first men and women to settle in the American West, and they continue to make important contributions to our economy, Western culture and my home State of Wyoming today. This year's resolution designates July 26, 2008, as the National Day of the Cowboy. I hope my colleagues will join me in recognizing the important role cowboys play in our country and will work with me to pass this resolution.

SENATE RESOLUTION 451—HONORING THE ACHIEVEMENTS OF RAWLE AND HENDERSON LLP, ON ITS 225TH ANNIVERSARY AND ON BEING RECOGNIZED AS THE OLDEST LAW FIRM IN CONTINUOUS PRACTICE IN THE UNITED STATES

Mr. SPECTER (for himself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 451

Whereas the law firm of Rawle and Henderson LLP has established and maintained a firm of national distinction whose reputation is based upon the notable accomplishments of its founders and its commitment to providing quality legal services to its clients;

Whereas Rawle and Henderson LLP celebrates 225 years of legal service in 2008, initiated by 5 generations of a family and expanded to over 100 attorneys in 8 offices and 5 states;

Whereas Rawle and Henderson attorneys throughout the last 225 years have served both the civic and legal community in the capacity of elected officials, as well as appointed and elected judges on the Federal and State benches;

Whereas William Rawle, who founded his practice in Philadelphia in 1783, was inspired by the innovation of the Revolutionary era and his notable contemporaries, such as Benjamin Franklin;

Whereas William Rawle actively participated in the ideological revolution as well, serving as chancellor of the Associated Members of the Bar of Philadelphia, and was elected to the American Philosophical Society and helped found the Pennsylvania Academy of Fine Arts;

Whereas William Rawle was made a Trustee by the University of Pennsylvania in 1796, a position he served with ''zeal and punctuality'';

Whereas William Rawle's son, William Rawle, Jr., joined the office in 1810, along with his brother William Henry, who eventually assumed his father's position in the firm;

Whereas William Henry Rawle received his degree from the University of Pennsylvania, and published articles such as the ''Practical Treatise on the Law of Covenants for Title'', which was accepted as a legal authority throughout the Union and in England;

Whereas William Henry Rawle was also invited to speak to the law department of his alma mater, the University of Pennsylvania, and in 1884 he appeared before a joint session of Congress to deliver a speech honoring Chief Justice John Marshall;

Whereas William Henry Rawle served as vice president of the Law Association of Philadelphia, and was noted by George Washington Biddle for his ''intellectual strength and brilliancy of expression'';

Whereas William Rawle's grandson Francis Rawle, the next leader of the Rawle law offices, attended Harvard College, began his law career in 1873, and was one of the founders of the American Bar Association and its first secretary and treasurer, later becoming its president in 1902;

Whereas Francis Rawle was a prolific author who gained national recognition with his revision of Bouvier's Law Dictionary, the publication of which coincided with the centennial of the Rawle firm in 1883, and he served as a delegate from the American Bar Association to the London Conference for Reform and Codification of the Law of Nations in 1887;

Whereas Colonel William Brooke Rawle, nephew of William Henry, served his country with distinction during the Civil War, entering the Union Army as Second Lieutenant, Third Pennsylvania Cavalry, was commended by his cousin Francis Rawle for his service, and went on to earn a master's degree from the University of Pennsylvania in 1866 and to join the family firm a year later, remaining the head of the office until his death in 1915;

Whereas Joseph W. Henderson joined the Rawle firm upon graduation from Harvard Law School, expanding the firm's reputation for legal excellence and eventually becoming a partner in 1917;

Whereas, in similar fashion to his colleagues, Joseph Henderson reached a position of considerable power in the Philadelphia Bar Association and became chairman of the Association's Board of Governors in 1936;

Whereas Joseph Henderson carried on the firm's tradition of leadership upon the passing of Francis Rawle, and oversaw 2 other significant additions, George Brodhead and Tom Mount, who worked in trusts and estates and the admiralty business, respectively;

Whereas Joseph Henderson continued to lead the firm with landmark cases in the area of ship owner liability, arguing many of them before the Supreme Court;

Whereas the Rawle and Henderson firm has evolved into one of the leading legal firms in the country, employing a racially and socioeconomically diverse staff, and has a number of attorneys honored as ''Super Lawyers'' in Pennsylvania; and

Whereas, supported upon the integrity of its founders and the numerous accomplishments of the Rawle family and of Joseph W. Henderson, the firm of Rawle and Henderson is primed to extend its history and tradition of legal innovation into a future of continued prominence: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the achievement of Rawle and Henderson LLP on its 225th anniversary and on being recognized as the oldest law firm in continuous practice in the United States; and

(2) salutes the profound legacy the attorneys of Rawle and Henderson LLP have provided to the civic and legal community of Pennsylvania and the Nation.

Mr. SPECTER. Mr. President, I seek recognition to congratulate the firm of Rawle and Henderson LLP on its 225th anniversary, and on being recognized as the oldest law firm in continuous practice in the U.S.

Five generations of the Rawle family have established and maintained a firm that has expanded to over a hundred attorneys in eight offices and five States. Rawle and Henderson attorneys have served as elected officials in both the civic and legal community throughout the past 225 years, and have served as appointed and elected judges on the Federal and State benches.

Inspired by Benjamin Franklin's accomplishments, William Rawle founded his practice in Philadelphia in 1783. His two sons followed their father's example, joining the practice in 1810. Joseph W. Henderson, a graduate of Harvard Law School, joined the firm in 1917, expanding the firm's reputation for legal excellence, and arguing numerous landmark cases before the Supreme Court. The Rawle and Henderson firm continues to prosper in 2008, employing a

racially and socioeconomically diverse staff.

The exceptional individuals who have founded and expanded the Rawle and Henderson firm into the prestigious organization it is today should be honored for their achievements. Their service has greatly benefited the civic and legal community of Pennsylvania and the U.S. I am confident that the Rawle and Henderson firm will continue to match their predecessors' commendable accomplishments for years to come.

SENATE RESOLUTION 452—COMMEMORATING THE 250TH ANNIVERSARY OF THE NAMING OF PITTSBURGH AS THE CULMINATION OF THE FORBES CAMPAIGN ACROSS PENNSYLVANIA AND THE SIGNIFICANCE THIS EVENT PLAYED IN THE MAKING OF AMERICA, IN THE SETTLEMENT OF THE CONTINENT, AND IN SPREADING THE IDEALS OF FREEDOM AND DEMOCRACY THROUGHOUT THE WORLD

Mr. SPECTER (for himself and Mr. CASEY) submitted the following resolution; which was considered and agreed to:

S. RES. 452

Whereas the Forks of the Ohio at today's Pittsburgh should forever be remembered as the place where an army of British and Colonial soldiers took control of Fort Duquesne from the French, a turning point in the French and Indian War, the first world war;

Whereas the British victory in the French and Indian War sowed the seeds of Colonial discontent with British rule, beginning the chain of events that led to the American Revolution;

Whereas the British Army under the leadership of General John Forbes built the first road across the Allegheny Mountains, thus securing the Gateway to the West for British and later American settlement;

Whereas General Forbes and Colonel George Washington named the location Pittsburgh, in honor of William Pitt the Elder;

Whereas Fort Pitt provided a safe haven for peoples from around the world to follow in Forbes' and Washington's footsteps to travel to Pittsburgh to settle the continent and to pioneer advancements in industry, science, technology, education, the environment, and the arts;

Whereas Pittsburgh went on to become the Crucible of the Industrial Revolution, producing glass, steel, and aluminum that have a place in every skyline in the United States, and perfecting the technologies that made it possible for alternating current to illuminate the Nation;

Whereas the people of the Pittsburgh region pioneered modern philanthropy, implemented the first smoke control regulation, developed the polio vaccine, and conquered rejection of transplanted organs, improving countless lives worldwide;

Whereas Pittsburgh is today a global leader in such emerging fields as materials science, regenerative medicine, nanotechnology, electro-optics, robotics, data storage, computer science, and commercial nuclear power;

Whereas Pittsburgh is home to more than 100 multi-billion dollar global corporations that improve the lives of people around the world;

Whereas Pittsburgh provides a high quality of life to its residents, offering unparalleled arts and cultural opportunities for a city of its size;

Whereas, in 2007 and in 1985, Pittsburgh was named America's Most Livable City, the only city in the United States to earn that honor twice;

Whereas Pittsburgh is commemorating its naming and its impact on the world with Pittsburgh 250, a year-long celebration involving communities in 14 Pennsylvania counties, parts of 7 States, and the District of Columbia;

Whereas Pittsburgh 250 has connected Washington, DC to Pittsburgh by supporting the completion of the Great Allegheny Passage Trail, the longest hiking and biking trail east of the Mississippi and the most accessible great trail experience in the world, providing an important new outdoor recreational asset to the people of the Mid-Atlantic United States; and

Whereas Pittsburgh has accomplished all of these things with an unparalleled history of public and private partnership: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 250th anniversary of the Naming of Pittsburgh, known as a significant event in United States history;

(2) recognizes that Pittsburgh 250 is organizing the commemoration on behalf of 14 counties in southwestern Pennsylvania;

(3) encourages participation for all Americans to learn how the Forbes Campaign, the opening of the Gateway to the West, the industrialization of America, and the environmental transformation of Pittsburgh helped to make America; and

(4) commends the contributions of those who have followed trails to Pittsburgh for 250 years to shape the world we live in and the Nation we have become.

SENATE RESOLUTION 453—RECOGNIZING FEBRUARY 20, 2008, AS THE 100TH ANNIVERSARY OF ABRAHAM BALDWIN AGRICULTURAL COLLEGE

Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted the following resulution; which was considered and agreed to:

S. RES. 453

Whereas the Second District Agricultural and Mechanical School opened its doors for classes on February 20, 1908, with 3 instructors and 27 students;

Whereas the school became a senior college for men, the first in south Georgia, in 1929;

Whereas the school changed its name in 1933 to Abraham Baldwin Agricultural College in honor of a Georgia signer of the Constitution of the United States and the first president of the University of Georgia;

Whereas the college recorded its all-time highest enrollment during the 2007 fall semester with 3,665 students from 154 Georgia counties, 12 other States, and 9 countries;

Whereas the college has expanded its curriculum to include 57 programs of study;

Whereas the college bears strong witness to its roots, with the Division of Agriculture and Forest Resources remaining the largest division of study on the 421 acre campus with over 800 students;

Whereas Washington Monthly Magazine named the college as one of the 10 best community colleges in America in 2007;

Whereas Turfnet Magazine selected the college's 2-year turfgrass program as the 7th best program of its kind in the United States and Canada in 2007;

Whereas the college celebrates among its alumni the Honorable George T. Smith, the only man in the history of Georgia to serve in elected positions in all 3 branches of State government, having served as Lieutenant Governor, Speaker of the House of Representatives, and as a justice on the Supreme Court of Georgia; and

Whereas February 20, 2008, marks the 100th anniversary of Abraham Baldwin Agricultural College: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 100th anniversary of Abraham Baldwin Agricultural College for its great contributions to the community and to higher education in Georgia; and

(2) recognizes the achievements of the administration, faculty, students, and staff of Abraham Baldwin Agricultural College.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4019. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table.

SA 4020. Mr. TESTER proposed an amendment to amendment SA 3899 proposed by Mr. Dorgan (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra.

SA 4021. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4022. Mr. GREGG proposed an amendment to amendment SA 3900 proposed by Mr. Sanders (for himself, Mr. OBAMA, Ms. CANTWELL, Mr. KERRY, Ms. SNOWE, Ms. COLLINS, Mr. SUNUNU, Mr. MENEDEZ, Mr. LEAHY, Mrs. CLINTON, Mr. KENNEDY, and Mr. DURBIN) to the amendment SA 3899 proposed by Mr. Dorgan (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra.

SA 4023. Ms. MIKULSKI (for herself, Mr. COLEMAN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4024. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4025. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4026. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4027. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4028. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4029. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4030. Mr. COBURN submitted an amendment intended to be proposed by him

to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4031. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4032. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4033. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4034. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4035. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4036. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

SA 4037. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4019. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 298, after line 25, insert the following:

"SEC. 71__. TESTIMONY BY SERVICE EMPLOYEES IN CASES OF RAPE AND SEXUAL ASSAULT.

''(a) APPROVAL BY DIRECTOR.—

''(1) IN GENERAL.—The Director shall approve or disapprove, in writing, any request or subpoena for a sexual assault nurse examiner employed by the Service to provide testimony in a deposition, trial, or other similar proceeding regarding information obtained in carrying out the official duties of the nurse examiner.

''(2) REQUIREMENT.—The Director shall approve a request or subpoena under paragraph (1) if the request or subpoena does not violate the policy of the Department to maintain strict impartiality with respect to private causes of action.

''(3) TREATMENT.—If the Director fails to approve or disapprove a request or subpoena by the date that is 7 days after the date of receipt of the request or subpoena, the request or subpoena shall be considered to be approved for purposes of this subsection.

''(b) POLICIES AND PROTOCOL.—The Director, in coordination with the Director of the Office on Violence Against Women of the Department of Justice, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall develop standardized sexual assault policies and protocol for the facilities of the Service.

SA 4020. Mr. TESTER proposed an amendment to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; as follows:

On page 336, between lines 2 and 3, insert the following:

"SEC. 815. SENSE OF CONGRESS REGARDING LAW ENFORCEMENT AND METHAMPHETAMINE ISSUES IN INDIAN COUNTRY.

''It is the sense of Congress that Congress encourages State, local, and Indian tribal law enforcement agencies to enter into memoranda of agreement between and among those agencies for purposes of streamlining law enforcement activities and maximizing the use of limited resources—

''(1) to improve law enforcement services provided to Indian tribal communities; and

''(2) to increase the effectiveness of measures to address problems relating to methamphetamine use in Indian Country (as defined in section 1151 of title 18, United States Code).

SA 4021. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 347, after line 24, add the following:

SEC. 104. GAO STUDY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to Congress a report describing the results of, a study of the tribal justice systems of Indian tribes located in the States of North Dakota and South Dakota.

(b) INCLUSIONS.—The study under subsection (a) shall include, with respect to the tribal system of each Indian tribe described in subsection (a) and the tribal justice system as a whole—

(1)(A) a description of how the tribal justice systems function, or are supposed to function; and

(B) a description of the components of the tribal justice systems, such as tribal trial courts, courts of appeal, applicable tribal law, judges, qualifications of judges, the selection and removal of judges, turnover of judges, the creation of precedent, the recording of precedent, the jurisdictional authority of the tribal court system, and the separation of powers between the tribal court system, the tribal council, and the head of the tribal government;

(2) a review of the origins of the tribal justice systems, such as the development of the systems pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act''), which promoted tribal constitutions and addressed the tribal court system;

(3) an analysis of the weaknesses of the tribal justice systems, including the adequacy of law enforcement personnel and detention facilities, in particular in relation to crime rates; and

(4) an analysis of the measures that tribal officials suggest could be carried out to improve the tribal justice systems, including an analysis of how Federal law could improve and stabilize the tribal court system.

SA 4022. Mr. GREGG proposed an amendment to amendment SA 3900 proposed by Mr. SANDERS (for himself, Mr. OBAMA, Ms. CANTWELL, Mr. KERRY, Ms. SNOWE, Ms. COLLINS, Mr. SUNUNU, Mr. MENENDEZ, Mr. LEAHY, Mrs. CLINTON, Mr. KENNEDY, and Mr. DURBIN) to the amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; as follows:

Strike all after line 1 and insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $400,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $400,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of that Act (42 U.S.C. 8621(e)).

(b) RESCISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each discretionary amount provided by the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), excluding the amounts made available for the purposes described in paragraph (2), is reduced by the pro rata percentage required to reduce the total amount provided by that Act by $800,000,000.

(2) EXCEPTED PURPOSES.—The reduction under paragraph (1) shall not apply to any discretionary amount made available in the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), for purposes of—

(A) the Department of Defense; or

(B) the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SA 4023. Ms. MIKULSKI (for herself, Mr. COLEMAN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 397, after line 2, add the following:

SEC. 213. MORATORIUM ON IMPLEMENTATION OF CHANGES TO CASE MANAGEMENT AND TARGETED CASE MANAGEMENT PAYMENT REQUIREMENTS UNDER MEDICAID.

(a) MORATORIUM.—

(1) DELAYED IMPLEMENTATION OF DECEMBER 4, 2007, INTERIM FINAL RULE.—The interim final rule published on December 4, 2007, at pages 68,077 through 68,093 of volume 72 of the Federal Register (relating to parts 431, 440, and 441 of title 42 of the Code of Federal Regulations) shall not take effect before April 1, 2009.

(2) CONTINUATION OF 2007 PAYMENT POLICIES AND PRACTICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy or practice, including a Medical Assistance Manual transmittal or issuance of a letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for case management and targeted case management services if such action is more restrictive than the administrative action, policy, or practice that applies to coverage of, or payment for, such services under title XIX of the Social Security Act on December 3, 2007. Any such action taken by the Secretary of Health and Human Services during the period that begins on December 4, 2007, and ends on March 31, 2009, that is based in whole or in part on the interim final rule described in subsection (a) is null and void.

(b) INCLUSION OF MEDICARE PROVIDERS AND SUPPLIERS IN FEDERAL PAYMENT LEVY AND ADMINISTRATIVE OFFSET PROGRAM.—

(1) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

''(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

''(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

''(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

''(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

''(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

''(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.''.

(2) APPLICATION OF ADMINISTRATIVE OFFSET PROVISIONS TO MEDICARE PROVIDER OR SUPPLIER PAYMENTS.—Section 3716 of title 31, United States Code, is amended—

(A) by inserting ''the Department of Health and Human Services,'' after ''United States Postal Service,'' in subsection (c)(1)(A); and

(B) by adding at the end of subsection (c)(3) the following new subparagraph:

''(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SA 4024. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 8___. SCIENTIFICALLY EFFECTIVE HEALTH PROMOTION SERVICES.

''Notwithstanding any other provision of this Act, coverage of health promotion services under this Act shall only be for medical or preventive health services or activities—

''(1) for which scientific evidence demonstrates a direct connection to improving health; and

''(2) that are provided in accordance with applicable medical standards of care.

SA 4025. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 8___. NO RACIAL PREFERENCE IN EMPLOYMENT.

''Notwithstanding any other provision of this Act, nothing in this Act authorizes any racial preference in employment.

SA 4026. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

Strike paragraph (5) of section 713(b) of the Indian Health Care Improvement Act (as amended by section 101) and insert the following:

''(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated.

At the end of section 713 of the Indian Health Care Improvement Act (as amended by section 101), add the following:

''(d) LIMITATION ON FUNDING.—Treatment shall be provided for a perpetrator pursuant to this section only if the treatment is scientifically demonstrated to reduce the potential of the perpetrator to commit child sexual abuse again, and shall not provide the basis to reduce any applicable criminal punishment or civil liability for that abuse.

SA 4027. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in title VII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 7___. CRIMINAL CONDUCT.

''Nothing in this title—

''(1) establishes any defense, not otherwise applicable under law, for any individual accused of any crime, including physical or sexual abuse of children or family violence; or

''(2) preempts or otherwise affects any applicable requirement for—

''(A) reporting of criminal conduct, including for child abuse or family violence; or

''(B) creating any new privilege concerning disclosure.

SA 4028. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 347, after line 24, add the following:

SEC. 104. BLOOD QUANTUM REQUIREMENT FOR FEDERAL RECOGNITION OF INDIAN TRIBES.

Effective beginning on the date of enactment of this Act, in determining whether to extend Federal recognition to an Indian tribe or other Indian group under part 83 of title 25, Code of Federal Regulations (or successor regulations), the Secretary of the Interior shall require that each member of the Indian tribe or group possess a degree of Indian blood of not less than 1/512.

SA 4029. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 347, after line 24, add the following:

SEC. 104. GAO STUDY OF MEMBERSHIP CRITERIA FOR FEDERALLY RECOGNIZED INDIAN TRIBES.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of membership criteria for federally recognized Indian tribes, including—

(1) the number of federally recognized Indian tribes in existence on the date on which the study is conducted;

(2) the number of those Indian tribes that use blood quantum as a criterion for membership in the Indian tribe and the importance assigned to that criterion;

(3) the percentage of members of federally recognized Indian tribes that possesses degrees of Indian blood of—

(A) 1/4;

(B) 1/8; and

(C) 1/16; and

(4) the variance in wait times and rationing of health care services within the Service between federally recognized Indian Tribes that use blood quantum as a criterion for membership and those Indian Tribes that do not use blood quantum as such a criterion.

SA 4030. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

Strike section 221 of the Indian Health Care Improvement Act (as amended by section 101) and insert the following:

''SEC. 221. LICENSING.

''Nothing in this Act preempts any State requirement regarding licensing of any health care personnel.

SA 4031. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 8___. GAO ASSESSMENT.

''Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Comptroller General of the United States shall

conduct, and submit to Congress a report describing the results of, an assessment of—

''(1) the average wait time of patients in the Service;

''(2) the extent of rationing of health care services in the Service;

''(3) the average per capita health care spending on Indians eligible for health care services through the Service;

''(4) the overall health outcomes in Indians, as compared to the overall health outcomes of other residents of the United States;

''(5) patient satisfaction of Indians receiving health care services through the Service;

''(6) the total amount of funds of the Service expended for—

''(A) direct medical care; and

''(B) administrative expenses;

''(7) the health care coverage options available to Indians receiving health care services through the Service;

''(8) the health care services options available to Indians; and

''(9) the health care provider options available to Indians.

SA 4032. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. _____. TESTING FOR SEXUALLY TRANSMITTED DISEASES IN CASES OF SEXUAL VIOLENCE.

''The Attorney General shall ensure that, with respect to any Federal criminal action involving a sexual assault, rape, or other incident of sexual violence against an Indian—

''(1)(A) at the request of the victim, a defendant is tested for the human immunodeficiency virus (HIV) and such other sexually transmitted diseases as are requested by the victim not later than 48 hours after the date on which the applicable information or indictment is presented;

''(B) a notification of the test results is provided to the victim or the parent or guardian of the victim and the defendant as soon as practicable after the results are generated; and

''(C) such follow-up tests for HIV and other sexually transmitted diseases are provided as are medically appropriate, with the test results made available in accordance with subparagraph (B); and

''(2) pursuant to section 714(a), HIV and other sexually transmitted disease testing, treatment, and counseling is provided for victims of sexual abuse.

SA 4033. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 336, between lines 13 and 14, insert the following:

''SEC. 817. TRIBAL MEMBER CHOICE DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary shall establish a demonstration project in not less than 3 Service Areas (chosen by the Secretary for optimal participation) under which eligible participants shall be provided with a risk-adjusted subsidy for the purchase of qualified health insurance (as defined in subsection (f)) in order to—

''(1) improve Indian access to high quality health care services;

''(2) provide incentives to Indian patients to seek preventive health care services;

''(3) create opportunities for Indians to participate in the health care decision process;

''(4) encourage effective use of health care services by Indians; and

''(5) allow Indians to make health care coverage and delivery decisions and choices.

''(b) ELIGIBLE PARTICIPANT.—

''(1) VOLUNTARY ENROLLMENT FOR 12-MONTH PERIODS.—

''(A) IN GENERAL.—In this section, the term 'eligible participant' means an Indian who—

''(i) is a member of a federally-recognized Indian Tribe; and

''(ii) voluntarily agrees to enroll in the project conducted under this section (or in the case of a minor, is voluntarily enrolled on their behalf by a parent or caretaker) for a period of not less than 12 months in lieu of obtaining items or services through any Indian Health Program or any other federally-funded program during any period in which the Indian is enrolled in the project.

''(B) VOLUNTARY EXTENSIONS OF ENROLLMENT.—An eligible participant may voluntarily extend the participant's enrollment in the project for additional 12-month periods.

''(2) HARDSHIP EXCEPTION.—The Secretary shall specify criteria for permitting an eligible participant to disenroll from the project before the end of any 12-month period of enrollment to prevent undue hardship.

''(c) SUBSIDIES REQUIREMENT.—The average amount of all subsidies provided to eligible participants enrolled in the demonstration project established under this section for each 12-month period during which the project is conducted shall not exceed the amount equal to the average of the per capita expenditures for providing Indians items or services from all Indian Health Programs for the most recent fiscal year for which data is available.

''(d) SPECIAL RULES.—

''(1) TREATMENT.—The amount of a subsidy provided to an eligible participant in the project shall not be counted as income or assets for purposes of determining eligibility for benefits under any Federal public assistance program.

''(2) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made to carry out the project do not exceed the amount of Federal expenditures which would have been made for the provision of health care items and services to eligible participants if the project had not been implemented.

''(e) DEMONSTRATION PERIOD; REPORTS TO CONGRESS.—

''(1) DEMONSTRATION PERIOD.—

''(A) INITIAL PERIOD.—The demonstration project established under this section shall begin not later than the date that is 1 year after the date of enactment of this section and shall be conducted for a period of 5 years.

''(B) EXTENSIONS.—The Secretary may extend the project for such additional periods as the Secretary determines appropriate, unless the Secretary determines that the project is unsuccessful in achieving the purposes described in subsection (a), taking into account cost-effectiveness, quality of care, and such other criteria as the Secretary may specify.

''(2) PERIODIC REPORTS TO CONGRESS.—During the 5-year period described in paragraph (1), the Secretary shall periodically submit reports to Congress regarding the progress of demonstration project conducted under this section. Each report shall include information concerning the populations participating in the project, participant satisfaction (determined by indicators of satisfaction with security, affordability, access, choice, and quality) as compared with items and services that the participant would have received from Indian Health Programs, and the impact of the project on access to, and the availability of, high quality health care services for Indians.

''(f) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—In this section, the term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) of the Internal Revenue Code of 1986 without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c) of such Code).''.

SA 4034. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 336, between lines 13 and 14, insert the following:

''SEC. 817. TRIBAL MEMBER CHOICE PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a program in geographically feasible Service Areas (as determined by the Secretary, taking into account those Service Areas that are likely to have optimal participation) under which eligible participants shall be provided with a risk-adjusted subsidy for the purchase of qualified health insurance (as defined in subsection (f)) in order to—

''(1) improve Indian access to high quality health care services;

''(2) provide incentives to Indian patients to seek preventive health care services;

''(3) create opportunities for Indians to participate in the health care decision process;

''(4) encourage effective use of health care services by Indians; and

''(5) allow Indians to make health care coverage and delivery decisions and choices.

''(b) ELIGIBLE PARTICIPANT.—

''(1) VOLUNTARY ENROLLMENT FOR 12-MONTH PERIODS.—

''(A) IN GENERAL.—In this section, the term 'eligible participant' means an Indian who—

''(i) is a member of a federally-recognized Indian Tribe; and

''(ii) voluntarily agrees to enroll in the program conducted under this section (or in the case of a minor, is voluntarily enrolled on their behalf by a parent or caretaker) for a period of not less than 12 months in lieu of obtaining items or services through any Indian Health Program or any other federally-funded program during any period in which the Indian is enrolled in the program.

''(B) VOLUNTARY EXTENSIONS OF ENROLLMENT.—An eligible participant may voluntarily extend the participant's enrollment in the program for additional 12-month periods.

''(2) HARDSHIP EXCEPTION.—The Secretary shall specify criteria for permitting an eligible participant to disenroll from the program

before the end of any 12-month period of enrollment to prevent undue hardship.

''(c) SUBSIDIES REQUIREMENT.—The average amount of all subsidies provided to eligible participants enrolled in the program established under this section for each 12-month period during which the program is conducted shall not exceed the amount equal to the average of the per capita expenditures for providing Indians items or services from all Indian Health Programs for the most recent fiscal year for which data is available.

''(d) SPECIAL RULES.—

''(1) TREATMENT.—The amount of a subsidy provided to an eligible participant in the program shall not be counted as income or assets for purposes of determining eligibility for benefits under any Federal public assistance program.

''(2) BUDGET NEUTRALITY.—In conducting the program under this section, the Secretary shall ensure that the aggregate payments made to carry out the program do not exceed the amount of Federal expenditures which would have been made for the provision of health care items and services to eligible participants if the program had not been implemented.

''(e) IMPLEMENTATION; REPORTS TO CONGRESS.—

''(1) IMPLEMENTATION.—

''(A) INITIAL PERIOD.—The program established under this section shall begin not later than the date that is 1 year after the date of enactment of this section and shall be conducted for a period of at least 5 years.

''(B) EXTENSIONS.—The Secretary may extend the program for such additional periods as the Secretary determines appropriate, unless the Secretary determines that the program is unsuccessful in achieving the purposes described in subsection (a), taking into account cost-effectiveness, quality of care, and such other criteria as the Secretary may specify.

''(2) REPORTS TO CONGRESS.—During the initial 5-year period in which the program is conducted, and during any period thereafter in which the program is extended, the Secretary shall periodically submit reports to Congress regarding the progress of program. Each report shall include information concerning the populations participating in the program, participant satisfaction (determined by indicators of satisfaction with security, affordability, access, choice, and quality) as compared with items and services that the participant would have received from Indian Health Programs, and the impact of the program on access to, and the availability of, high quality health care services for Indians.

''(f) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—In this section, the term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) of the Internal Revenue Code of 1986 without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c) of such Code).''.

SA 4035. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 8___. REQUIREMENT.

''Not less than 85 percent of amounts made available to carry out this Act shall be used to provide the medical services authorized by this Act.

SA 4036. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 121, strike line 15 and insert the following:

''(c) PRIORITIZATION.—Before providing any hospice care, assisted living service, long-term care service, or home- or community-based service pursuant to this section, the Secretary shall give priority to the provision of basic medical services to Indians.

''(d) DEFINITIONS.—For the purposes of this section,

SA 4037. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 121, strike line 15 and insert the following:

''(c) EFFECTIVE DATE.—

''(1) EFFECTIVE DATE.—This section takes effect on the date on which the Secretary makes the certification described in paragraph (2).

''(2) CERTIFICATION.—The certification referred to in paragraph (1) is a certification by the Secretary to Congress that—

''(A) the service availability, rationing, and wait times for existing health services within the Service are—

''(i) acceptable to Indians; and

''(ii) comparable to the service availability and wait times experienced by other residents of the United States; and

''(B) the provision of services under this section will not divert resources from or negatively affect the provision of basic medical and dental services by the Service.

''(d) DEFINITIONS.—For the purposes of this section,

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources Subcommittee on Public Lands and Forests.

The hearing will be held on February 27, 2008, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 832, to provide for the sale of approximately 25 acres of public land to the Turnabout Ranch, Escalante, Utah, at fair market value; S. 2229, to withdraw certain Federal land in the Wyoming Range from leasing and provide an opportunity to retire certain leases in the Wyoming Range; S. 2379, to authorize the Secretary of the Interior to cancel certain grazing leases on land in Cascade-Siskiyou National Monument that are voluntarily waived by the lessees, to provide for the exchange of certain Monument land in exchange for private land, to designate certain Monument land as wilderness, and for other purposes; S. 2508 and H.R. 903, to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests in Colorado, and for other purposes; S. 2601 and H.R. 1285, to provide for the conveyance of a parcel of National Forest System land in Kittitas County, Washington, to facilitate the construction of a new fire and rescue station, and for other purposes; H.R. 523, to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington, to the utility district; H.R. 838, to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachel_pasternack@energy.senate.gov.

For further information, please contact Kira Finkler at (202) 224–5523 or Rachel Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, February 13, 2008, at 9:30 a.m., in open session in order to receive testimony on improvements implemented and planned by the Department of Defense and the Department of Veterans Affairs for the care, management, and transition of wounded and ill servicemembers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 13, 2008, at 10 a.m., in order to conduct a mark up of an original bill entitled ''Industrial Bank Holding Company Act of 2008''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during

the session of the Senate in order to conduct a hearing on Wednesday, February, 13, 2008, at 9:45 a.m., In room SD366 of the Dirksen Senate Office Building. At this hearing, the committee will hear testimony regarding the President's fiscal year 2009 budget request for the Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, February 13, 2008, at 10 a.m. in room 215 of the Dirksen Senate Office Building, to hear testimony on ''Selling to Seniors: The Need for Accountability and Oversight of Marketing and Sales by Medicare Private Plans, Part Two.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 13, 2008, at 10 a.m. in order to hold a hearing on the President's foreign affairs budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 13, 2008, at 2:30 p.m. in order to hold a committee coffee with His Excellency Salam Fayyad, Prime Minister of the Palestinian National Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, February 13, 2008, at 10 a.m. in order to conduct a hearing entitled ''The Defense Department's Homeland Security Role: How the Military Can and Should Contribute.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, in order to conduct a hearing entitled ''Examining the State Secrets Privilege: Protecting National Security While Preserving Accountability'' on Wednesday, February 13, 2008, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

Witness list

Carl Nichols, Deputy Assistant Attorney General, U.S. Department of Justice, Civil Division, Washington, DC; The Honorable Patricia M. Wald, Former Chief Judge, U.S. Court of Appeals for the D.C. Circuit, Washington, DC; Louis Fisher, Specialist in Constitutional Law, Law Library of the Library of Congress, Washington, DC; Robert M. Chesney, Associate Professor, Wake Forest University School of Law, Winston-Salem, NC; and Michael Vatis, Partner, Steptoe & Johnson LLP, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, February 13, in order to conduct a hearing on the FY 2009 Budget for Veterans Programs. The Committee will meet in room 418 of the Russell Senate Office Building, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 13, 2008, at 2:30 p.m. in order to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, February 13, 2008 from 10:30 a.m.–12:30 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet during the session of the Senate, in order to conduct a hearing on the Family and Medical Leave Act on Wednesday, February 13, 2008. The hearing will commence at 3 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BOND. Madam President, first, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy Commander Scott Butler, be granted floor privileges during the second session of the 110th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRPORT AND AIRWAY EXTENSION ACT OF 2008

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5270, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5270) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Madam President, I rise today to support a short-term extension of the Federal Aviation Administration's contract authority and its collection and expenditure authority through to June 30, 2008. Because of the urgent need to extend the current aviation taxes and related budget provisions, I am supporting this legislation.

But I am becoming convinced that Congress cannot pass S. 1300, the Aviation Investment and Modernization Act, authored by then-Senator Lott and myself. I believe that Congress should pass a long-term extension of the existing aviation taxes in order to give the FAA the funding stability it needs while Congress moves forward with a comprehensive review of how the agency is funded. I cannot support the current funding regime, as it will not provide the agency with the resources it needs to build the Next Generation Air Traffic Control System. In lieu of a long-term extension, I would have preferred an extension until the end of this fiscal year, September 30, 2008, as it would have given the FAA and our Nation's airports a greater degree of reassurance that they will receive the full $3.5 billion in airport funding that Congress approved last year.

The short-term extension before us today is not only crucial to the ongoing functioning of the FAA, it is necessary because without it the agency faces a potential crisis. Without adopting this legislation, the FAA would not be able to pay 4,000 employees after February 29, 2008. And that is an unacceptable action. The last thing the agency needs right now is to endure a potentially debilitating staffing crisis. To preserve these jobs this short-term extension must be passed today.

This country's aviation system is the safest in the world. However, in remaining vigilant to maintain this standard we must ensure the FAA has the resources to continue its efforts in modernizing our air traffic control system and in updating the more antiquated parts of our aviation infrastructure. The passing of this extension today will allow these vital investments to continue.

I look forward to working with my friend and distinguished colleague, Senator KAY BAILEY HUTCHISON, and members of the Senate's Finance and

Commerce Committees in making sure the FAA has the resources and tools it needs to continue making our aviation system the safest in the world. It is crucial we work together to provide the FAA with the certainty it needs in these challenging times for the aviation sector. This will not only benefit the FAA but the industry generally and the many millions of Americans it serves each year.

Mrs. HUTCHISON. Madam President, I rise today to urge my colleagues to vote for a short-term extension of FAA collection, expenditure authority, and Airport Improvement Program, or AIP, contract authority through June 30, 2008.

The previous extension was scheduled to expire on February 29, 2008. Short of congressional action, hundreds of airports across the Nation were at risk of losing an entire construction season and hindering much needed improvements to our aviation system. In addition, the FAA was at risk of not being able to fund this year's planned critical investments in the Next Generation Air Traffic Control System, NEXTGEN. Now, because of our efforts, those improvements can continue as planned.

While I am pleased with our work today, I am disappointed we could not provide more stability in the system by completing a longer term extension through September 30, 2008, which is the end of the fiscal year.

As legislators, it is our responsibility to create stability and predictability in our infrastructure system. We cannot allow our lack of action to disturb the modernization efforts and the flow of funds to our aviation system.

Thankfully, the extension we passed today will provide immediate funding and spending authority as well as a valuable cushion for the Senate to work on the overarching FAA reauthorization bill.

I am looking forward to working with my friend and distinguished colleague Senator JAY ROCKEFELLER to complete a multi-year FAA reauthorization bill. We have several challenges ahead of us, and we will attempt to come together in a bipartisan way to meet those challenges. The extension we passed today is just the first step in what will be a very important year for aviation policy.

Mrs. MURRAY. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5270) was ordered to a third reading, was read the third time, and passed.

COMMEMORATING THE 250TH ANNIVERSARY OF THE NAMING OF PITTSBURGH

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 452, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 452) commemorating the 250th anniversary of the Naming of Pittsburgh as the culmination of the Forbes Campaign across Pennsylvania and the significance this event played in the making of America, in the settlement of the continent, and in spreading the ideals of freedom and democracy throughout the world.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 452) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 452

Whereas the Forks of the Ohio at today's Pittsburgh should forever be remembered as the place where an army of British and Colonial soldiers took control of Fort Duquesne from the French, a turning point in the French and Indian War, the first world war;

Whereas the British victory in the French and Indian War sowed the seeds of Colonial discontent with British rule, beginning the chain of events that led to the American Revolution;

Whereas the British Army under the leadership of General John Forbes built the first road across the Allegheny Mountains, thus securing the Gateway to the West for British and later American settlement;

Whereas General Forbes and Colonel George Washington named the location Pittsburgh, in honor of William Pitt the Elder;

Whereas Fort Pitt provided a safe haven for peoples from around the world to follow in Forbes' and Washington's footsteps to travel to Pittsburgh to settle the continent and to pioneer advancements in industry, science, technology, education, the environment, and the arts;

Whereas Pittsburgh went on to become the Crucible of the Industrial Revolution, producing glass, steel, and aluminum that have a place in every skyline in the United States, and perfecting the technologies that made it possible for alternating current to illuminate the Nation;

Whereas the people of the Pittsburgh region pioneered modern philanthropy, implemented the first smoke control regulation, developed the polio vaccine, and conquered rejection of transplanted organs, improving countless lives worldwide;

Whereas Pittsburgh is today a global leader in such emerging fields as materials science, regenerative medicine, nanotechnology, electro-optics, robotics, data storage, computer science, and commercial nuclear power;

Whereas Pittsburgh is home to more than 100 multi-billion dollar global corporations that improve the lives of people around the world;

Whereas Pittsburgh provides a high quality of life to its residents, offering unparalleled arts and cultural opportunities for a city of its size;

Whereas, in 2007 and in 1985, Pittsburgh was named America's Most Livable City, the only city in the United States to earn that honor twice;

Whereas Pittsburgh is commemorating its naming and its impact on the world with Pittsburgh 250, a year-long celebration involving communities in 14 Pennsylvania counties, parts of 7 States, and the District of Columbia;

Whereas Pittsburgh 250 has connected Washington, DC to Pittsburgh by supporting the completion of the Great Allegheny Passage Trail, the longest hiking and biking trail east of the Mississippi and the most accessible great trail experience in the world, providing an important new outdoor recreational asset to the people of the Mid-Atlantic United States; and

Whereas Pittsburgh has accomplished all of these things with an unparalleled history of public and private partnership: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 250th anniversary of the Naming of Pittsburgh, known as a significant event in United States history;

(2) recognizes that Pittsburgh 250 is organizing the commemoration on behalf of 14 counties in southwestern Pennsylvania;

(3) encourages participation for all Americans to learn how the Forbes Campaign, the opening of the Gateway to the West, the industrialization of America, and the environmental transformation of Pittsburgh helped to make America; and

(4) commends the contributions of those who have followed trails to Pittsburgh for 250 years to shape the world we live in and the Nation we have become.

RECOGNIZING THE 100TH ANNIVERSARY OF ABRAHAM BALDWIN AGRICULTURAL COLLEGE

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 453, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 453) recognizing February 20, 2008, as the 100th anniversary of Abraham Baldwin Agricultural College.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 453) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 453

Whereas the Second District Agricultural and Mechanical School opened its doors for classes on February 20, 1908, with 3 instructors and 27 students;

Whereas the school became a senior college for men, the first in south Georgia, in 1929;

Whereas the school changed its name in 1933 to Abraham Baldwin Agricultural College in honor of a Georgia signer of the Constitution of the United States and the first president of the University of Georgia;

Whereas the college recorded its all-time highest enrollment during the 2007 fall semester with 3,665 students from 154 Georgia counties, 12 other States, and 9 countries;

Whereas the college has expanded its curriculum to include 57 programs of study;

Whereas the college bears strong witness to its roots, with the Division of Agriculture and Forest Resources remaining the largest division of study on the 421 acre campus with over 800 students;

Whereas Washington Monthly Magazine named the college as one of the 10 best community colleges in America in 2007;

Whereas Turfnet Magazine selected the college's 2-year turfgrass program as the 7th best program of its kind in the United States and Canada in 2007;

Whereas the college celebrates among its alumni the Honorable George T. Smith, the only man in the history of Georgia to serve in elected positions in all 3 branches of State government, having served as Lieutenant Governor, Speaker of the House of Representatives, and as a justice on the Supreme Court of Georgia; and

Whereas February 20, 2008, marks the 100th anniversary of Abraham Baldwin Agricultural College: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 100th anniversary of Abraham Baldwin Agricultural College for its great contributions to the community and to higher education in Georgia; and

(2) recognizes the achievements of the administration, faculty, students, and staff of Abraham Baldwin Agricultural College.

MEASURES READ THE FIRST TIME—S. 2633 AND S. 2634

Mrs. MURRAY. Madam President, I understand there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title for the first time.

The legislative clerk read as follows:

A bill (S. 2633) to provide for the safe redeployment of United States troops from Iraq.

A bill (S. 2634) to require a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

Mrs. MURRAY. I now ask for a second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

SENATE REPORT 110–259

Mrs. MURRAY. Madam President, I ask unanimous consent that an errata be printed with respect to Senate Report 110–259, which I now send to the desk.

There being no objection, the correction is as follows:

On page 74, the heading was incorrectly printed. The name of Senator SPECTER should be stricken from the heading listing senators with ''Minority Views''.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 5 of title I of Division H of Public Law 110–161, appoints the following Senator as chairman of the U.S.-Japan Interparliamentary Group conference for the 110th Congress: the Honorable TED STEVENS of Alaska.

Mrs. MURRAY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2636

Mrs. MURRAY. Madam President, I understand S. 2636 introduced today by Senator REID is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2636) to provide needed housing reform.

Mrs. MURRAY. I now ask for a second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard. The bill will be read the second time on the next legislative day.

ORDERS FOR THURSDAY, FEBRUARY 14, 2008

Mrs. MURRAY. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, February 14; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 1200, the Indian Health Care Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. MURRAY. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Thursday, February 14, 2008, at 9:30 a.m.